The Province of Alberta

IN THE MATTER OF THE PUBLIC INQUIRIES ACT

—and—

IN THE MATTER OF a Commission, dated the 12th day of October, A.D. 1938, to inquire into matters connected with Petroleum and Petroleum Products

Commissioners:

The Honourable MR. JUSTICE McGILLIVRAY
(*Chairman*)

—and—

L. R. LIPSETT, ESQ.

Session:

CALGARY, Alberta DECEMBER 14th, 1939

VOLUME 150

FINAL ARGUMENT

10.30 A. M. Session,
14th December, 1939.

MR. FRAWLEY: Mr. Mahaffy was to make a statement this morning on a point.

MR. MAHAFFY: Mr. Chairman, it was suggested that I give the Commission the views of my client with respect to the 8 cent reduction in the pipe line handling charge and whether or not that should be reflected back in an increased field price.

I have obtained some information from my client. I think to some extent the same information given by Mr. Harvie, although perhaps not made up in just exactly the same way but it should be pointed out, as Mr. Harvie pointed out, that since the new pipe line rate and handling charge rate was put into effect there had been reductions in the price of the refined products; on July 24th the price of 3rd structure was reduced 1 cent a gallon; on October 25th the price of "Q" Brand was reduced a half cent a gallon and the price of Ethyl was reduced 1 cent a gallon.

Now from here on my figures vary somewhat from Mr. Harvie's because we deeemed it necessary to work out the situation on a basis of our average or estimated refinery run and consequently it has been worked out on the basis that the run is 15% Ethyl, 35% "Q" Brand and 50% Third structure or heavier fuels. Now on that basis, and also assuming an 80% recovery of these products from the crude oil, in other words 28 gallons of saleable products from a barrel of crude oil, the result is that these reductions represent a reduction equivalent to 23 cents per barrel of crude oil; in other words, although the 8 cent reduction was made early in July, the result of those reductions in the

10:30 A. M., Session,
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MR. TRAMMELL: [illegible]
this point in the record.

MR. WHEATLEY: [illegible]
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the 8 cent reduction [illegible]
whether or not [illegible]
field notes.

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from my clients. [illegible]
given by [illegible]
exactly the same way [illegible]
between [illegible]
charge [illegible]
the price of the refined [illegible]
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[illegible]
something from [illegible]
to [illegible]
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basis that the [illegible]
fluctuations [illegible]
assuming [illegible] the recovery of [illegible]
oil. In other words [illegible]
barrel of crude oil, [illegible]
refinery [illegible] equivalent to 80 cents per barrel of
crude oil. [illegible] 8 cent reduction
was made [illegible] July, [illegible] reductions in the

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prices of the selling product is equivalent to 23 cents per barrel, so that in our view there has already been passed on to the public a reduction almost three times as much as the reduction of 8 cents in the handling charge of the crude.

Now as far as we are concerned, the Gas & Oil Products Limited is purely in a refining operation but as a matter of fact, the associated companies in which Mr. Mayland is interested, are also substantial crude producers but giving the whole matter careful consideration, Mr. Mayland has instructed me to say that in his view there should be no increase in the price of crude oil in the field; in his view it is particularly desirable to not only endeavor to extend the markets in the sense of extending the area into which Turner Valley crude may penetrate, but it is also desirable to increase as far as possible the consumption of oil in the area now being served and that can be accomplished, of course, in either of these two ways, one, by reducing the price of crude oil and two, by increasing the price and that situation would be harmfully affected by doing that.

Now I do not know that I want to say very much more about it, sir, except to point out that the Gas & Oil Products Limited is in a somewhat different position than all other refiners in connection with this situation, in view of the fact that our plant is in the field and we do not, for the purposes of the crude used in our operations, we do not use the pipe line. However, I prefer not, - and Mr. Mayland prefers not, - to base any argument on that particular feature; that was a circumstance which is there.

As the price of the crude oil in a field goes up or goes down in the future, that is something we have to meet and take care of in our own way but we prefer to put it on the broader ground that in our view ability to market crude oil produced in Turner Valley will be harmfully affected by increasing the price by the 8 cents, as has been suggested.

MR. FRAWLEY: Mr. Mahaffy, as I understand, your company has not been advantaged at all by the reduction in the price.

MR. MAHAFFY: Except insofar as, except perhaps we have used the pipe line to transport any surplus crude that we have had to other markets. Now I have not figures on that and I am not sure that we have used the pipe line this summer but if we have it is not to any extent.

MR. FRAWLEY: That is so because your operation is in Turner Valley and ordinarily you do not use a pipe line.

MR. MAHAFFY: That is right.

MR. FRAWLEY: So you have had no advantage from the reduction as refiners, no reduction say tsince the 3rd of July?

MR. MAHAFFY: That is right.

MR. FRAWLEY: So you are principally seeking to avoid what you probably regard as a penalty, namely increasing the price at this time?

MR. MAHAFFY: Well, as I say, we prefer not to put it on that ground because, as I say, we realize our refinery is in Turner Valley and we do not expect all the rest of the world to be upset to meet our particular condition because it is a particular condition which we have.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

J. C. Mahaffy, K.C.

MR. FRAWLEY: Yes.

MR. MAHAFFY: But we do say that that 8 cent reduction has already been given three-fold to the consumers.

MR. FRAWLEY: Oh, yes.

MR. MAHAFFY: And also we say that in our view we would rather see a tendency to decrease somewhat the price of crude oil rather than increase it, in the field, due to our idea that that would assist in market expansion.

MR. FRAWLEY: You think then there is some relation between these reductions and this pipe line saving. Of course, we were told there was not any at all.

MR. MAHAFFY: I did not say that. If that was so the reduction passed on to the consumers would amount to 8 cents or approximately 8 cents a barrel but it is a fact that since that 8 cent reduction went in, it works out that there has been a reduction of 23 cents a barrel, assuming the factors which I mentioned, 15% Ethyl, 35% "Q" Brand and 50% Third Structure. On our figures that works out to a reduction of 23 cents per barrel that has been passed on to the consumer since the first of July.

MAJOR LIPSETT: I suppose any benefit you get from the crude oil going through the pipe line is a benefit to the producer, it is not really a benefit to the refiner, is it, it is the surplus oil produced by the producer?

MR. MAHAFFY: Well there is that, sir, that is quite true and then if Gas & Oil Products through its purchase contracts should have a surplus of crude available, as it might do, then, of course, that surplus would probably be passed through the pipe line.

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MR. FRAWLEY: You see, I am only making these remarks and interrupting to make it clear, but I thought it might serve a purpose. From what I understand Mr. Mahaffy's position to be, he is taking up the cudgels of the refiners who have had an advantage of this since the 3rd of July and he says they have passed on these large savings. Now I am trying to obtain his views about the nature of the savings and the relationship between those savings, these reductions and the pipe line savings because if I am clear about anything, Mr. Chairman, it is that these savings have gone into the refineries and have stayed there and especially with respect to the Saskatchewan refineries they stayed there but alongside of that and quite apart from that, Mr. Halverson made the two drops of which we have had complete explanations one to stop drainage and the other to meet 3rd Grade competition. However, all right.

Mr. Chairman, Mr. Plotkins phoned this morning and said he had been asked by Mr. Commissioner Lipsett to deal with the difficulties of the Royalite Oil Company in connection with the pipe line connection and he intimated to me that he had overlooked that and he wishes to make a short statement this morning. I have mentioned this to Mr. Brownlee.

THE CHAIRMAN: All right, Mr. Plotkins.

MR. PLOTKINS: I am sorry, Mr. Commissioner Lipsett, I overlooked it.

Now I first want to deal with what it means to our companies in dollars and cents. Since July 1st we have paid out to the Imperial Oil, - not the Royalite Oil Company, - the Imperial Oil is the owners of

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this two inch line that goes from the Imperial Oil Refinery to our refinery and in July, August, September and October, to the end of that month, we paid out $2,817.77; in other words more than enough to pay for the trunk or the connection between the trunk line and our refinery.

Now during the course of the Argument in front of the Chairman of the Board of Public Utility Commissioners, the whole question of whether we were entitled to that pipe line and on what conditions was re-opened by the solicitor for the Imperial Oil and the Royalite Pipe Line or the New Valley Pipe Line and I was quite surprised because in the report of this Commission they have laid down certain recommendations. It was to be assumed that all these matters had been gone into, that they had been found sufficient to justify the recommendations made by this Commission but I was put in the position of having to do it all over again. Now that, of course, would have meant delay and I pointed that out to Mr. Justice Carpenter, that the question of who shall pay for it, the question of whether we should give a guarantee, could be argued out later and the main thing I was interested in was to get that pipe line in and I would agree to abide by whatever findings the Commission would make later on and it was on them conditions that the order was made but to read the recommendations of this Commission and weigh the situation in that light will demonstrate the trouble of the small independent refiner or for that matter any independent in the oil business, of having to deal with large companies through Commissions.

In the Report made by this Commission, the final Report re Pipe Line matters,

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paragraph 29 on Page 115, this is what it says:

"With regard to the connection between the trunk line "and the tanks of the British American Oil Company's "Refinery and the Lion Oils Refinery, we have found that "the British American Company now has a service line from "the trunk line to its Refinery tanks. We have recommend-"ed that a similar connection to Lion Oils Refinery be "ordered if not forthwith made. We have recommended "that all capital expenses in connection with these two "Refinery connectiors should be borne by the carrier "companies, that the connecting line be under the control "of the carrier companies and that the operating costs "of putting oil into the tanks of these refineries be "a part of the general rate of 9½ cents per barrel, "which we have before recommended as the service rate "for all services other than loading into tank cars "and tank trucks. It is our opinion that the increased "business will more than compensate the carrier companies "for capital and operating costs in respect of these "connecting lines. We have, however, provided in our "recommendation, since a question has arisen as to the "volume which will pass through the connecting line to "the Lion Oils Refinery that the service to that Refinery "be upon the condition that the carrier company shall not "be required to deliver less than 3,000 barrels at one "time."

Now those recommendations are quite specific. They cover the situation thoroughly. The purpose of re-opening ---

THE CHAIRMAN: Mr. Frawley, this report was made

to His Honour, was it dealt with in any way by order-in-Council or otherwise?

MR. FRAWLEY: A Statute was passed. It was transmitted by me to the Lieutenant Governor on the 23rd of March and certainly reached the Lieutenant Governor-in-Council and was dealt with by passing a Statute which was called the Pipe Line Regulation Act which created the Pipe Line property of the Royalite Oil Company a Public Utility.

THE CHAIRMAN: Yes.

MR. FRAWLEY: And that Statute became effective I think, on the first of April or thereabouts, of 1939.

THE CHAIRMAN: Yes, was the Report dealing with these connections dealt with in any way, the connections of the Lion Oils ---

MR. FRAWLEY: Well no, not by legislation. Presumably that was all turned over to the Public Utilities Board.

MAJOR LIPSETT: On what basis, Mr. Frawley, do you know, is this Company able to force the payment of these charges of this extra 6 cents, in the face of the recommendations and the Statutes.

MR. FRAWLEY: Well, of course, the Statute ---

THE CHAIRMAN: The whole rate including transportation into his refinery should be 9½ cents.

MR. FRAWLEY: The Statute does, as I recall, was a direction, it virtually contained a direction, it did not leave any discretion at all to the Utilities Board and it recommended and practically ordered, I wish I had the Section before me, that the rates recommended in this Commission's

Report should by order of the Board become effective, should be transmitted into an order of the Board.

THE CHAIRMAN: Didn't we make a recommendation to that effect?

MR. FRAWLEY: Did you make a recommendation to that effect?

THE CHAIRMAN: Yes.

MR. FRAWLEY: Oh, yes, quite.

THE CHAIRMAN: That would be something which the Utilities Board would have to accept.

MR. PLOTKINS: That is the Argument, Mr. Chairman, that I used to Mr. Carpenter.

THE CHAIRMAN: I do not understand this.

MR. FRAWLEY: Might I get the Statute?

(Go to Page 16,739)

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MR. FRAWLEY: The Statute is Chapter 4 of the Statute of 1939. It is called "The Pipe Line Regulation Act." The section that is pertinent is Section 5, Sub-section (2).

"(2) In any case where the Lieutenant Governor in Council has caused an enquiry to be held under The Public Inquiries Act and the subject matter of that enquiry has included an enquiry into the operation of any pipe line or any matter pertaining thereto, and the commissioner or commissioners appointed to make such enquiry by any report made at any time whether in the course of such enquiry or at the close thereof recommend that any rate or rates be fixed for the gathering, transporting, distributing, handling or delivery of petroleum or any specified kind or kinds thereof by means of any pipe line or for any service performed by the proprietor of any such pipe line in relation to the gathering, transporting, distributing, handling or delivery of any such petroleum, then and in every such case upon any such rate or rates being approved by order of the Lieutenant Governor in Council the Board is authorized and directed to make an order without any enquiry fixing the rates for the gathering, transporting, distributing, handling or delivery of petroleum or any specified kind thereof by means of the pipe line to which the report relates at the rate or rates recommended by such report."

Then there was following the passing of the Statute an Order-in- Council under

the provisions of that Sub-section which did as this section directs and pursuant to that the Board made an order on the 3rd of July, 1939. That Order, I think perhaps I saw it but I do not think I paid very much attention to it.

THE CHAIRMAN: Do you understand, in the light of that, the position of The Public Utilities Board? Why the attitude of the Imperial Oil?

MR. FRAWLEY: In requiring it to be proved over again?

THE CHAIRMAN: To be proved over again, after reading over the recommendations by this Board and those prescribed by the Statute?

MR. FRAWLEY: I feel like yielding to my friend, Mr. Nolan. I have not followed it at all.

THE CHAIRMAN: It may be we have nothing to do with it now at all, but it does serve to make one point pretty clear, that recommendations perhaps without some mandatory authority in somebody to see they are carried out and carried out at once, are not of very much value.

MR. COMMISSIONER LIPSETT: Mr. Frawley, is it not quite clear from that and from the Report that a rate of 9½ cents includes the transportation of the oil into the Lion Refinery and that that rate is 9½ cents whether it be put in under the present existing facilities of the two public utilities, or whether they put it in by making this other connection which seems to be more economical? The rate as I understand it is 9½ cents for delivery to the refinery, and that anything more than that was an unjustifiable charge.

MR. FRAWLEY: "We have recommended that a similar connection to Lion Oils Refinery be ordered if not forthwith made. We have recommended that all capital expenses in connection with these two refinery connections should be borne by the carrier compaies that the connecting line be under the control of the carrier companies and that the operating costs of putting oil into the tanks of these refineries be a part of the general rate of 9½ cents per barrel, which we have before recommended as the service rate for all services other than loading into tank cars and tank trucks."

In other words, if, as and when the line is built then the 9½ cents covers it through the new line. Yes, that is surely what that means.

MR. COMMISSIONER LIPSETT: Equally does it not cover it while the oil is being transported over the two, or by the two different public utilities whichever way they work?

THE CHAIRMAN: At least from the time that they could reasonably have been expected to or should have put the line in.

MR. FRAWLEY: I think this, by virtue of this Statute, the small pipe line from the end of the large pipeline to Mr. Plotkin's plant is a public utility. I think that is clear.

THE CHAIRMAN: Yes.

MR. FRAWLEY: By virtue of the definition.

THE CHAIRMAN: I think you have made your point, Mr. Plotkins.

MR. COMMISSIONER LIPSETT: Mr. Plotkins, there is

one other point in the argument I want to ask you about. You were describing your saving of 1½ cents per gallon in your method of operation. Now I thought that was a saving in the marketing at first, and then you said no, that was the netback to the refinery, that 1½ cents.

MR. PLOTKINS: It is 1½ cents reduction of our selling prices as compared with the Imperial Oil selling prices for similar products, on an average.

MR. COMMISSIONER LIPSETT: From your refinery?

MR. PLOTKINS: No. This report was just the prices and all these figures concern only marketing.

MR. COMMISSIONER LIPSETT: Is that 1½ cents absorbed between your refinery company and your marketing company, or does it mean your refinery company is getting 1½ cents less for the gasoline than the Imperial Refinery?

MR. PLOTKINS: No. I haven't the figures with me but our refinery gets a little bit less than what the Imperial gets for their products, because our cost was greater. We have a smaller refinery and not so efficient. Still we do sell our products on a competitive basis.

MR. COMMISSIONER LIPSETT: Your refinery price is approximately the same as the Imperial?

MR. PLOTKINS: Approximately the same.

MR. COMMISSIONER LIPSETT: This cent and a half from net back is really the margin or profit or expense or whatever you like to call it between your refining company and your marketing company?

MR. PLOTKINS: No, I think you are confused. We have to sell our marketing company on a

competitive basis. We have to sell our marketing company the products on a competitive basis because if we did not the marketing company is at a disadvantage and would be better off to buy from someone else. So we do sell our products to the marketing company at approximately the same price as the Imperial sells to its marketing branch, on paper.

MR.COMMISSIONER LIPSETT: Then is there approximately the same spread between your refinery and the public as there is in the case of the Imperial?

MR. PLOTKINS: No, the spread is a cent and a half less. If I may be allowed to explain this. The Imperial gets - I have not the figure but I will take any figure, 15% is what the Imperial gets as tho net back based on the tank waggon.

MR. COMMISSIONER LIPSETT: To the refinery?

MR. PLOTKINS: No, to the marketing company, because the refinery does not market to the public. The reason they only get 15% - well in fact it is 14.8 because I remember the figures of the 1.2 reduction below the tank wagon on an average. So they get 14.8 but they were supposed to get 16 cents because that is the tank waggon. But because of these different reductions to meet competition and various other factors the net back to the marketing company is 14.8. Our basis for the same reasons instead of being exactly on our tank waggon is a cent and a half less than the 14.8. In other words, our price was 14.8 less 1½, 13.3. In other words suppose one man represented the public he would have bought everything we sold through the marketing company and he would have paid 13.3 and we would have delivered it in

[illegible]

the same way we are delivering it today. In the case of the Imperial he would have paid 14.8.

MR. COMMISSIONER LIPSETT: Is that the actual consumer or is that absorbed by some dealer or some one in the meantime?

MR. PLOTKINS: It is the consumer in the last analysis that gets that cent and a half. Because the dealer presumably only makes a competitive profit. In other words our dealer and some other dealer because of competition, cannot exact a bigger profit than some other dealer, and in fact his own selfish interests force him to give as much away of his margin as possible so as to increase his dollars and cents profit on his over-all operations.

THE CHAIRMAN: He gets it in the first instance but if it is good business he will pass it on?

MR. PLOTKINS: Yes, and it is good business because he gets more volume and therefore more profit on his capital.

MR. COMMISSIONER LIPSETT: You think either the whole or a large bulk of it ultimately finds its way to the consumer?

MR. PLOTKINS: All of it. Now there is only one matter I wish to draw to the attention of the Commission and I think it is vital, in connection with this working of this pro-ration. I was not able to do it yesterday because I did not have the final answer from the Royalite and the Imperial Oil. In theory at this time of the year we produce and do not consume in our refinery our production. In theory we are supposed to have a market for it, but because we have

made no nomination our well is producing its share of the total market but at the end of the month the Royalite Pipe Line says "Well true, but we do not want your oil. We do not need it. We have enough of our own." That goes to demonstrate that in theory pro-ration provides a market for everybody but in practice it does not because of the same fundamental competitive reasons that a competitor is not going to help another man. So that notwithstanding laws and notwithstanding theory, in practice pro-ration does not work out as it is intended to do. Now our position this year is that we bought 53,541 barrels from the Imperial Oil. Why? Because our own well did not produce enough. Now for the next two months possibly we will have three to four thousand barrels to sell to somebody. Now in practice we do not produce anything. We turn over everything we produce to the Royalite and they credit it on the pipe line price. In fact that is the practice of it. Then we buy all our requirements from the Royalite at not the pipe line price but the weighted average price. So that theoretically and in practice we should be able to turn over to them our 2000 barrels of surplus production. But they say "Well, we do not want it." So that that is all I have to say to show the fallacy of the pro-ration unless it is accompanied by stringent regulations and price fixing, and the one million and one other things. That ie all, thank you.

THE CHAIRMAN: Mr. Plotkins, you heard what Mr. Mahaffy had to say this morning?

MR. PLOTKINS: Yes sir.

THE CHAIRMAN: What do you say? I know you have dealt with that point already but do you

mind stating shortly and concretely your position with respect to the passing of that pipe line saving to the producer?

MR. PLOTKINS: Now I quite agree with Mr. Mahaffy's figures. I have not checked them but actually that is what we figure 80% recoveries on the crude at the present time and no doubt his company or the Gas and Oil Products have worked out the relative values today on the net back and what they were before the price reduction went into effect. So that I have no hesitation in saying they are substantially correct. Now whether it was due to the pipe line reduction or not, is immaterial. The pipe line reduction is one of the economic factors. There could have been no pipe line reduction and still these reductions in prices would have taken place. In the course of price reduction or price increase one million factors affect the situation and the result is the pipe line reduction was forced by economic conditions. Why? The Commission and the clamor of the public apparently went into the matter and decided that the rate was exorbitant or was too high in relation to the general good. Now coming to the same remarks that Mr. Mahaffy made about increasing the market through lowering the price of crude, that is the views I expressed yesterday in a different way. So I have nothing further to say there. Now as to giving the 8 cents to the producer, the second part of Mr. Mahaffy's argument answers that. If you are going to raise the price of crude and lower the throughput or the production in Turner Valley is the producer going to be benefited? No. The best interests of the producer, the independent producer is to increase his net earnings,

not his price per barrel, and thereby perform a service to the community in making available more and more oil at lower prices and give more and more services. In other words, make a man that much more happy. He has more stuff for his money and he can heat his home or he can run his car further or he can get more enjoyment. And this is not a penalty on the producer if he can increase his throughput and lower his cost per barrel. He is not penalized any more than I am penalized if I reduce my price and increase my profit. It is not a penalty. The producer in Turner Valley is in the same position.

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J. E. BROWNLEE, K.C.

MR. BROWNLEE: My Lord and Mr. Commissioner, We feel that you have now reached the end of a most thorough and what must have been a very arduous inquiry into this most difficult subject and I presume that you are genuinely weary of repeated discussions on various phases of the subject. I, therefore, have felt that I could best serve you this morning by condensing my remarks as much as possible and by referring only to certain aspects of the subject matter of the inquiry which are of especial interest to my client as a farmers' organization. I have, therefore, put my remarks in the form or a memorandum. But I am digressing at this time from reading just to assure you of the anxiety of my clients to assist you as much as possible, and if, therefore, as a result of your study you feel you would like our views at this time on any particular matter that is not dealt with in this memorandum,

then either Mr. Priestley or myself will be very glad to give you our views to the best of our ability. Now, having said that I wish to read what we have prepared.

It is with a very great deal of hesitation that my clients, the U.F.A. Central Co-operative Association Limited, have accepted the invitation of Counsel for the Commission to take part in the arguments now being presented to you at the conclusion of the very painstaking inquiry which you have conducted over the past several months. We assume that an argument at this time is supposed to be by way of a critical analysis or summary of the evidence submitted to you by the various witnesses who have appeared. Unfortunately our organization has not had the financial means to enable it to be represented day by day to hear the evidence. Neither have we been able to examine the record as it has appeared from day to day. We feel, therefore, we must say quite frankly that anything we can now offer will only be by way of emphasizing certain points which were placed before you in the submission made by Mr. Priestley on July 25th.

You will recall that in his submission Mr. Priestley stated that the officers of his Association could not speak with authority upon matters pertaining to the production, transportation, refining or manufacture of petroleum or petroleum products and that they were limited to an experience of some eight years in the co-operative distribution of fuel and lubricating oils. Mr. Priestley's submission therefore of necessity dealt with problems arising out of the marketing of these products. We regret all the more that we are limited in

then, [illegible]

give you our views to the best of our ability. [illegible]

[illegible] what we have prepared.

[illegible]

[illegible] F.T.C. [illegible]

[illegible] representative [illegible] accepted [illegible] invit[illegible]

[illegible] Commission [illegible]

not being represented [illegible] you at [illegible] of the [illegible]

[illegible] which you have conducted over [illegible]

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[illegible] Association could [illegible] authority [illegible]

[illegible] the production, transportation,

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and that they [illegible] of some [illegible]

[illegible] distribution [illegible] fuel and lubric[illegible]

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[illegible]

this way as from our experience such as we have had, we believe that any substantial reductions in the price structure must be made in the fields of production, transportation, and refining rather than in the field of marketing. In other words, when the refinery price has been fixed and transportation costs are taken into account the spread allowed under our present conditions to meet marketing costs does not permit of any substantial reduction.

MR. COMMISSIONER LIPSETT: I think your organization was not getting the same discount that those large jobbing companies were getting, were they? You were not getting as high a discount?

MR. BROWNLEE: Well in our contract with the Maple Leaf Petroleums it is true we do not receive the full 6 cents of $6\frac{1}{2}$ cents, whichever is the usual amount that is allowed to the jobbing companies. We receive part of that and Maple Leaf Refining Company retain part, because of the services which they render for us. So that in what I have said here I am assuming that is the usual margin that is allowed the jobbing companies may be said to represent the marketing costs in the Province under our present scheme of distribution. What we have to say is that we do not believe that in that margin there is very much room for any substantial reduction in the price structure.

MR. COMMISSIONER LIPSETT: Your observation really though deals with your own margin does it not, your low marketing margin?

MR. BROWNLEE: We have to speak principally from our own margin. It varies. I have not the contract before me but my recollection, Mr. Frawley, is

J. E. Brownlee, K.C. -16,750-

it varies from $3\frac{1}{2}$ cents down.

MR. FRAWLEY: Yes.

MR. BROWNLEE: And the balance of the 6 cents or $6\frac{1}{4}$ cents which I believe is the usual rate, 6 cents, which is usually allowed to jobbers in the Province is retained by the Maple Leaf who perform for us such services as auditing our books, checking up on the accounts of the dealers; a certain amount of work by way of handling collections and under the contract there are certain divisions of losses and expenses.

THE CHAIRMAN: You feel you are getting the full spread by way of services?

MR. BROWNLEE: Yes, absolutely. I will go further at this stage and say something I might have said a little later. I may say I was discussing this particular question last night with the Executive of the Association, and if we attempted to take over the duties that are now being performed by Maple Leaf Petroleums for us we doubt if we could do that work and make any substantial profit within that part of the margin which they are retaining.

MR. COMMISSIONER LIPSETT: I understand. But am I right in the recollection that they also provide certain equipment?

MR. BROWNLEE: No they do not provide equipment except to this extent. When the contract was first made Maple Leaf Petroleums Limited had some 30, I think it was, country outlets, and as part of the consideration for the whole contract, they agreed to give us the use of those 30 stations without rent. But apart from that they provide no equipment. We buy our own equipment.

It is true that they assist us to finance by making a loan to us on a 5% basis, payable over a certain number of years. But they furnish no equipment at their own costs. We pay for the equipment outside of the 30 stations which were provided.

The U.F.A. Central Co-operative Association Limited is a farmers' organization and therefore at all times is primarily concerned with the welfare of the farmers of the Province. We feel that we must again stress the fact that the farmers of the Province generally have since 1930 been passing through a period of unusual and extreme difficulty arising out of the fact that the principal commodities produced on the farms of this Province are largely sold on an export market. It is unnecessary to dwell upon the international movements which have made it increasingly difficult to market our products with the result that for the greater part of the past decade large surpluses, that is of farm products, have accumulated in this country and disastrously low prices have resulted. It is undoubtedly true that any dissatisfaction - may I interject to say there is much at the present time - that any dissatisfaction and unrest which has arisen from these conditions has been aggravated during the past three months since the outbreak of war, as farmers have witnessed the increased cost of farm labor and the rising prices of commodities which they must purchase as entering into the cost of production on the one hand, and even lower prices for grain prevailing than were experienced a year ago on the other. We feel we must again emphasize therefore what was stated in the previous brief, namely that at whatever cost to this

organization we would have to support any legitimate policies or movements which might have as their purpose the reduction in the cost of gasoline products which enter so largely in the cost of production of the average farmer. At the same time we believe this background - that is the general economic condition of our farmers - must be kept in mind in considering one or two problems dealing directly with the sale and distribution of gasoline products.

In any consideration of marketing problems we feel too we must keep in mind the fact that this Province, if not still in the pioneer stage, has only recently emerged from that stage. Our population compared to the area of settlement is still quite small. Our Province is very sparsely settled. I believe Dr. Frey gave the ratio of population in this Province at 2.71 as compared with a ratio of over 40 in his country, and that ratio is possibly correct.

MR. FRAWLEY: That was in Iowa.

MR. BROWNLEE: Well in the one State, but to a reasonably close extent the same comparative ratio would apply to other States outside of probably Montana and the Dakotas.

We have every reason to hope that the production of oil in Alberta will develop into a very large industry. There is also every reason to believe that the consumption of gasoline products will also show a very large increase. It is interesting to note that in 1923 the consumption of gasoline in the Province was only slightly above 12,000,000 gallons; by 1930 that had increased to 50,000,000. In the last fiscal year - that

is the fiscal year of the Provincial Government - it was estimated at over 80,000,000 or an increase of some sixty percent in about eight years. In 1921 the total number of tractors, combines, motor trucks and automobiles on the farms in the Province was estimated at around 30,000. That is taken from the census returns at that time. In 1936 the estimate was 74,700. There has no doubt been a substantial increase since 1936 but there is undoubtedly a very great development of mechanization in farming still before us even on the basis of present acreage so that we can look forward with confidence to a very considerable increase in our rural consumption of gasoline while the continued improvement of our highway system will result in continued increase in the consumption of gasoline and oil products for industrial purposes.

When I use the words "industrial purposes" in that last sentence, I refer of course to trucking, bus services and also of those services which have developed so rapidly since, for example, we have put gravel on the roads, on some of the roads in this Province, and surface the highways North and South. And as the gravel and surfacing extends East and West we can expect equally large consumption for industrial purposes. I need not comment, of course, on the transfer of traffic from the railways to the highways, which has resulted as the highways have been improved.

In any rapidly expanding industry there is always a tendency for facilities to develop beyond actual requirements, and possibly I may interject to admit quite candidly that they have.

Practices in a pioneer state may be inevitable which are not economically sound in a well developed community. As stated in our previous brief, it is quite possible that there has been an overlapping of effort. Service stations may have been developed beyond our immediate requirements and practices may have been put into effect to meet our peculiar rural problems that seem illogical and difficult to defend. It does become a nice question however, as to whether such developments are in excess of the probable increased demand of the next decade and even a nicer question as to how far, in view of the extreme variations in our seasonal demands, any form of regulation can efficiently meet the problem. For example, two or three years ago a very common observation was the over-development of our country and terminal elevator facilities. I presume there was as much general comment about that as there may be comments today about the over-development of our retail outlets, and yet this past Fall we have witnessed the slowing up of the marketing of grain by our farmers for the reason that our existing facilities were filled to capacity.

Now sir, I just want to interject to say you have a number of views placed before you by different witnesses as to the extent to which

there should be Government interference and regulation in the field of oil production, refining and distribution and those views, I assume, have ranged all the way from those who are opposed to any sort of interference of any kind, to possibly some,-I do not know that these have appeared before you,-who would go a very great distance in recommending Government interference and supervision.

I represent an organization that is rather socially minded and we take it as an accepted fact today, not only in this country but in other countries, that we are going to have Government interference and supervision. Just how far that should go into the question of actual management it is still a matter for dispute and argument but I believe, and I am speaking for my organization here, that we do believe that the trend of affairs in all countries of the world today, the advanced countries,-probably it has gone to an extreme in some of the countries that we do not think are quite as advanced,-but in all advanced countries we do think that the trend is for a certain amount of supervision and regulation and the extent of that supervision and regulation probably depends on whether the industry or business is entirely or partially a public utility.

So far as this organization is concerned, and that is speaking now for my own organization, we wish to make it clear that we have had no objection to the efforts made by the Department of Trade and Industry during the past few years to regulate the

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establishment of new stations under a licensing system and we would not object to a continuation of that policy either under the existing Department of Government or under such other form as may be recommended by this Commission provided,-and we do make this provision, that certain principles are fully recognized, and those principles are:

(1). We are opposed to monopolistic control or anything approaching such control and would therefore object to any policy which placed two or three major companies in an unduly advantageous position in the field of distribution.

And following from that we think that in any regulations which may be promulgated to regulate in the future, to try to regulate the development of service stations there should be sufficient flexibility in administration to permit new organizations to enter the field to some extent. Just how far, becomes a matter of policy, and (3) in particular there should be full recognition of the principle of co-operative effort and organizations engaged in the co-operative distribution of gasoline or petroleum products should be exempt from such regulations or policies at least to the extent of allowing one such organization to become established at any point.

Now have I made myself clear, sir.

THE CHAIRMAN: No.

MR. BROWNLEE: Beg pardon.

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THE CHAIRMAN: No, at least I want to understand that exemption; assuming your principle is right, then there must be a good reason for the exemption.

MR. BROWNLEE: Well the exemption is simply this, at least the reason is simply this, and I may say to some extent it is accepted I believe by the departmental officials today, a co-operative organization works on an entirely different principle from what are called the privately owned or sometimes straight line companies in that any profit or surplus which they make does not go into the pockets of two, three, four, or any number of individuals who are not directly concerned as producers or consumers; in other words, if you have, such as the Wheat Pool is today, or the United Grain Growers, if you have a concern that is engaged in the co-operative marketing of farm products, then it differs from the so-called straight line grain companies in this respect that in the straight line grain companies the profit made may go into the hands of one, two, a thousand or more shareholders who are not producers of grain but with a co-operative marketing concern the profit goes back to those men who are the producers of grain and therefore it becomes an element in the amount which they receive for their products. They receive an initial payment. If they receive a subsequent dividend, patronage dividend, that becomes part of the price which they have received for their commodity. Now we do suggest, we do suggest, that where you have a co-operative

I understand that [illegible]

[illegible]

the departmental officials [illegible] co-operative [illegible]

tion upon [illegible]

[illegible] does not [illegible]

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fruit growers, if you have a [illegible]

the co-operative marketing [illegible] products, then it

differs [illegible] the so-called straight line [illegible]

[illegible] the straight line [illegible]

[illegible]

profit goes back to the [illegible]

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[illegible]

patronage dividend, that [illegible] the price which

they [illegible] received for their [illegible]

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concern distributing gasoline, that the same principle applies, and as I will point out in a moment, I will illustrate how it has been worked out in our own organization, that is whatever profit is made over and above handling expenses goes back to those consumers of gasoline directly who have made the enterprise possible and who are members of it and therefore it operates as a reduction in the price which they are paying for that commodity and in the case of a farmers' organization, it does work as a reduction in the cost of production in this Province by reducing to some extent,-even if it is only a slight extent,-the price which they have paid for that commodity.

Now following up that principle then we say that if there is going to be some organization, whether it is a department, a department of the Government or whether it is a Board which may be created, to regulate, administer and control the whole field of production and manufacture and distribution of gasoline in the Province, and if that department is going to say that in Lacombe "We think that so many stations will serve the district and there are so many there now", and there is not a co-operative organization there now and if a co-operative organization seeks to go in there, we think that the exemption, there should be an exemption there in the rules or regulations to the extent that at least one co-operative organization will be allowed to enter into that field.

MAJOR LIPSETT: Then your second exemption

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really is more or less on the same line, Mr. Brownlee, I suppose, that if a new competitor----

MR. BROWNLEE: Well rightly or wrongly we feel----

MAJOR LIPSETT: Which has come in, that he should be allowed to come into the district with a view of increasing or keeping up competition, is that so.

MR. BROWNLEE: Well rightly or wrongly we feel that this Province has a large future before it; that there will be a big increase in the distribution of gasoline. At the present time there are a number of companies engaged in the distribution of gasoline in the Province but if we turn to the United States we find that there are a great many more. Now it is quite conceivable,- we understand that one large company has come into the Alberta field in the past two years and it is conceivable that some other large company might seek to come in and commence operations in Alberta in the complete field, refining and distribution. Now if the regulations are going to be too rigid or too rigidly enforced, obviously a new organization of that kind can be prevented from entering the field and prevented from expanding to such an extent that it would make its operations impossible and so we simply say that if the department is going to continue,-and we are agreeable that they should,-we think on the whole, as I will show later, we think it is a good thing,-the principle, but we do think that in any regulations which may be advanced or in any recommendations which may come from this body, from this Commission, we

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think that there should be a certain amount of flexibility so that if a new organization might seek to come in and commence its operations here, they are going to be allowed to have service stations even at some point where otherwise it might be considered there are enough today, but certainly we say that if,-it does not matter whether it is our co-operative organization or another ,-we certainly say that if a group of farmers of sufficient number get together to handle a product on a co-operative basis, distribute back on a patronage dividend basis any surplus over and above the actual costs of operation, that they should not be prevented from going into any of the major points of the Province.

MAJOR LIPSETT: Would you limit that to a co-operative organization confined to farmers.

MR. BROWNLEE: Not at all, not at all. I am speaking naturally from the farmer's viewpoint but if for example in the City of Edmonton or in the City of Calgary or in the City of Red Deer or the Town of Wetaskiwin or the Town of Lacombe, if a number of consumers, who are not farmers, joined together in a co-operative enterprise, we would certainly say "Yes", they should be allowed just as much freedom as we ask for ourselves.

MAJOR LIPSETT: You make the general application and you use the farmer as an example.

MR. BROWNLEE: Yes, so far as this recommendation is concerned the only test is that it must be a co-operative organization, genuine co-operative organization, operating as one and the test of such a thing is

[illegible] TO [illegible]

[illegible]

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whether or not the benefits of the organization go back to the member consumers.

MAJOR LIPSETT: Now, Mr. Brownlee, in reference to a new organization entering the field, would you confine that to a new organization coming in to refine some of the crude oil in the Province or would you extend that, have you considered it, whether that should be extended simply to marketing organizations coming, which may, from one point of view, merely mean an increase in the cost of distribution.

MR. BROWNLEE: I think I would speak for my organization quite properly in this way if I say that we have the belief that it is not a good thing for any community to have the manufacture or the refining or the distribution too much in one or two companies and as a matter of fact I believe that these companies would say themselves that they doubt if it is a good thing because in this present day and generation it is apt to lead to suspicions and apt to lead to a great deal of unrest and therefore we feel that there may be still either in the refining field or in the distribution field, we feel there might still be enterprises, other bona fide, genuine concerns-----

MAJOR LIPSETT: As refiners.

MR. BROWNLEE: As refiners, yes.

MAJOR LIPSETT: Or marketers.

MR. BROWNLEE: Or marketers, we think there is still possibly room, having regard to the possible expansion in the future, we think there should be some flex-

ibility at least left in the administration, so that if a genuine concern does come in, then it would have room to operate.

MAJOR LIPSETT: Yes.

MR. BROWNLEE: Now just while I am on that point, I probably should say this, which I intended to deal with in the latter part of my remarks, we do think at the same time there should be a greater control over the efforts of those who do seek to come in, that is there should be some teeth in the Public Utilities Commission or somewhere, some little, some stronger regulation than there has been because in the past three or four years there have been a number of attempts made,- and I understand that right at the present time there are two attempts being made,-to organize refineries at small points in the Province on a so-called co-operative basis, which in the cases that have occurred in the past three years proved to be nothing more nor less than promotion schemes, never went ahead, with the result that some of our farmers who are in a position to advance a little money and did advance money,-and it accumulated into a very substantial amount,-lost everything they put in. We do not think that it should be too easy for any promoter or any organization to become established in any branch of the industry; that of course has to be a matter of great judgment on the part of those who are administering our Public Utilities Act on the one hand or if those functions should be transferred to some other body, a matter of their good judgment, good judgment on their part.

difficulty [illegible] least [illegible] in the administration, so that if [illegible] concern does [illegible], that it would have [illegible] to [illegible].

[illegible]: [illegible].

[illegible]: [illegible] how [illegible] I [illegible] that point, [illegible] [illegible] should [illegible] this, which I [illegible] [illegible] that [illegible] the latter part of my [illegible], [illegible] that at [illegible] time [illegible] right should be [illegible] [illegible] the efforts of [illegible] or [illegible], [illegible] there should be [illegible] in the public utility [illegible] or [illegible], [illegible], some strong [illegible] regulation [illegible] been [illegible] in the past [illegible] or [illegible], there have [illegible] number of [illegible] and I [illegible] that at the present [illegible] are [illegible] attempts being made,—to organize [illegible] [illegible] in the [illegible] on a so-called [illegible] [illegible], which in the [illegible] that have occurred in the [illegible] three years, proved to be [illegible], none [illegible] than [illegible] schemes, never [illegible], with the result that some [illegible] our [illegible] who [illegible] position to [illegible] [illegible], [illegible] advance money,—and it [illegible] into a very substantial [illegible],—that money that they put in. [illegible] not [illegible] it should be necessary for any [illegible] or [illegible] [illegible] become established in [illegible] much of [illegible] country, that [illegible] course has to [illegible] of great [illegible] [illegible] [illegible] in [illegible] public [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible]

MR. FRAWLEY: It would come under the Securities Act.

MR. BROWNLEE: I agree with Mr. Frawley that it is the Securities Act that would largely control it.

MAJOR LIPSETT: I imagine more or less that your suggestion would be that there should be flexibility on the one hand through this Board but that it will exercise some sort of quasi judicial discretion.

MR. BROWNLEE: Quite.

MAJOR LIPSETT: Not on the one hand issuing licenses to all comers.

MR. BROWNLEE: No.

MAJOR LIPSETT: And not on the other hand excluding some organization which would be a potential benefit to the public generally.

MR. BROWNLEE: Quite correct.

MAJOR LIPSETT: You would allow a great measure of discretion.

MR. BROWNLEE: I think you would have to allow a very great measure of discretion and I think the personnel becomes a matter of vital importance.

MAJOR LIPSETT: Vital importance.

MR. BROWNLEE: Yes, and I may say, and I want to say here that so far as our organization is concerned, we have had no trouble whatsoever with the departmental officials either in the Licensing Branch or elsewhere, in any Province which we have had to take it up with them during the past two or three years, we have

found them extremely reasonable as we have attempted to enter certain points; some points we have met with a great deal of opposition from the businesses established there but we can say that so far, we have found the officials to be fair and reasonable. I think that probably looking back over the past two or three years, the only argument which we ever had of even a partially serious nature was rather with the Fire Commissioners than with those who were dealing with licenses; the regulations which they have recently drawn up as to the requirements for filling stations, that is the number of feet between the service station and adjoining property, we think is, we think that they are rather extreme having regard to the stage of the development of the Province today and in one or two cases we did have a little difference under those regulations but even there, in the last analysis we always found the department to be anxious to do the fair thing and I thought that I ought to make it clear that so far as our organization is concerned we have had no difficulty and we are prepared to support the theory of a continuation of some kind of supervision over the establishment of service stations.

MAJOR LIPSETT: That fire hazard is one thing that it might be to a man's credit that he erred on the side of over-caution, you have to be very careful.

MR. BROWNLEE: Oh unquestionably. We realize that the storage of gasoline is somewhat of a hazard although I think it has developed, it has been pretty well proven that the underground storage is not much of a hazard.

MAJOR LIPSETT: I see.

MR. BROWNLEE: I know we had one case of a fire up in Peace River right over an underground storage, quite a fire so far as the building was concerned, it was a wooden building then and there was no explosion or no danger, apparently no danger so far as the underground storage is concerned.

I turn now to the next question if I may; there has been considerable discussion before your Commission on the subject of the free distribution of drums to farmers and the views of my clients have already been placed before you. The farmer is not entirely to blame and possibly very little to blame for the development of this practice. It is possible that the practice was extended by competition. It was probably an inevitable consequence of the development of this industry in a frontier or semi-frontier community and that development may have been aggravated by the efforts to introduce the use of gasoline as a fuel on our farms. The practice was probably extended by the competition of distributors for farm business. Apparently it was prevalent in the early days in the States of the Union but the practice has given way there to more economical practices such as the truck tank delivery system.

We were very much interested in reading the evidence of Dr. Frey in this respect. It is unnecessary to point out that the day of the truck tank delivery in this Province,-that is the general use of it. I believe it is here in some places,-is probably

still some distance before us, partly because of our scanty settlement and partly because apart from our main highways the roads of the Province for a large part of the year are unfit for such a plan of delivery.

If we were to speak entirely from the viewpoint of distributors we would of course be glad to get rid of this practice. We admit it is bothersome, that there are losses in drums and the practice is somewhat illogical but on the other hand, we believe that by careful supervision the losses can be minimized and that while the practice involves a considerable initial outlay, it is not a substantial factor in the price structure. We are concerned greatly with the financial position of many of our farmers today. Even under very greatly improved conditions we believe that an extended period of rehabilitation is before them in replacing much needed implements of production and we believe that the distributing organizations can be depended upon to terminate this practice as soon as reasonably feasible and that it would be better to allow the practice to be gradually tapered off by the companies themselves than to attempt to suddenly put an end to it by arbitrary regulation.

In other words we consider the drum question is a comparatively unimportant incident in the distribution system and one which could best be left to the distributors to solve.

The position of my client is

very much the same----

MAJOR LIPSETT: May I interrupt you for a moment.

MR. BROWNLEE: Yes, Mr. Commissioner.

MAJOR LIPSETT: On this question of free drums, would it not solve itself by a gradual process if there was an arrangement that no new drums would be purchased, leaving the existing drum system to wear itself out over a period of possibly a year or so.

MR. BROWNLEE: Well I do not know if I would want to go even that far, sir. I think that that might result in certain inequalities and I think that I would prefer to leave our recommendation on this particular subject in the way we have and that is that the matter not be dealt with by regulation at all and leave it to the best judgment of those who are in the busines to try and discontinue it when they can. I think it will disappear from this Province ultimately as it disappeared in the United States but in the meantime, and I want to say that those for whom I speak and myself, we are not alarmists, and we do not want to appear to be stressing too much here today the position of the majority of our farmers. We have prosperous farmers and quite a number of them but on the other hand taking them by and large there is more discontent in this Province today than I have seen for some time and I doubt if it is a sufficiently important question, the drum question, I doubt if it is sufficiently important to stir up any resentment on the part of any of these men that in addition to the other

burdens and the other difficulties which they will have before them in the next few years in trying to rehabilitate the farm machinery, by trying to add on even this small, comparatively small, expenditure of providing storage facilities or containers. I doubt if it is wise that that should be put upon them. I think it should be left to the industry to deal with as the companies themselves see fit.

MAJOR LIPSETT: So long as it is continued, Mr. Brownlee, would that not mean that the companies would have to expend more capital in buying new containers to replace those which are worn out, and it has been subject to this suggestion that these drums are not provided free in the sense that somebody pays for them and presumably the farmer pays his share, and that it might be more equitable that the man who actually gets the drums should either at once or over a period pay for that particular service that he gets, instead of the general body of consumers paying for it.

MR. BROWNLEE: Well there is some, undoubtedly some initial expense in supplying drums. There is no question about it but we do feel that, and we think that we have demonstrated that the losses can be minimized by careful handling and after all when it is spread over a number of years we think that the cost is insignificant, probably one-eighth of 1%, somewhere around there, a fraction of 1%.

MAJOR LIPSETT: So far as your organization is concerned, that is your distributing organization, you

do not provide any drums, do you yourselves.

MR. BROWNLEE: No, we do not provide the drums except in just a few cases but we are trying, coming before you and we are trying to the best of our ability to put before you the viewpoint of the man out on the land.

THE CHAIRMAN: Does the Maple Leaf provide drums.

MR. BROWNLEE: Yes, they provide the drums for their share, that is one of the services which they provide for us.

MAJOR LIPSETT: Is it the general practice of the organization to provide drums, the Maple Leaf, or is it only the exceptional case.

MR. BROWNLEE: No, it is a pretty general practice.

MAJOR LIPSETT: To provide drums.

MR. BROWNLEE: Yes.

THE CHAIRMAN: With the exception of a very few cases the Maple Leaf provides all the drums and it is a part of the service they render for the money they are paid.

MR. BROWNLEE: Yes, for the money they are paid.

THE CHAIRMAN: So they are not doing it free.

MR. BROWNLEE: No, they are not doing it free. The service is free to the farmer but not free so far as the company is concerned. It does involve a capital

expenditure. We are not speaking for them in what I am saying. Their view might be quite different on the question of the drums.

MAJOR LIPSETT: Does it follow from that that the farmer is paying for the drums in the proportion that the expense is undertaken by the Maple Leaf and would it follow from that that it would be more equitable for the individual farmer who got the drum to pay the expenditure rather than that the whole body of the farmers should pay for it, if they are not getting it.

MR. BROWNLEE: Well if it can be reduced to proof that the service was a material factor in the price structure so that it could be said to the farmers that the price of gasoline would be reduced by 2 cents or a cent and a half or a cent, there might be something to that argument but we do think that the cost is such a relatively small part and this practice has been established and we do think and we urge this to the best of our ability, speaking for the very large number of farmers, we do suggest that at the present time it is not worth while trying to stop the practice by regulation and it would be better to leave this as a matter to be worked out as part of the economics of the whole business. Now that is our viewpoint and we suggest it in the best way we can to the Commission.

MAJOR LIPSETT: Perhaps I am pressing you too much, Mr. Brownlee, if I put this to you, that, as you suggest, that the working out of it, does that mean the ultimate elimination of drums.

MR. BROWNLEE: I think it will disappear from this Province. It disappeared in the United States.

MAJOR LIPSETT: Yes.

MR. BROWNLEE: And I do not see any reason why it should remain as a permanent feature in the economics of this Province any more than it did in the United States.

MAJOR LIPSETT: Your position really is that the free use of drums should really not be stopped but that great care should be exercised in the method of bringing about its discontinuance and tiding it over.

MR. BROWNLEE: Yes, and that can be done by the distributing organizations without regulations in that respect.

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THE CHAIRMAN: Of course, the singular thing is, Mr. Brownlee, that, as I understand you, your farmers in your organization are paying for the drums that they get, right to-day. It is only those who are not in your organization who are getting them free, because you are allowing part of the spread which would ordinarily come to you as a marketer and this surplus which would be distributed to your members, to remain with the Maple Leaf, the quid pro quo for which is, in part, their supplying drums. So your farmers are definitely paying for the use of their drums.

MR. BROWNLEE: Well, theoretically that may be true.

THE CHAIRMAN: It is so, is it not?

MR. BROWNLEE: Theoretically. Practically we say not because we are convinced of this, that if we went to the Maple Leaf Petroleums to-morrow, in negotiating another contract - and I speak now from some knowledge of what took place when the last one was negotiated - and the question of providing these drums was removed, I am satisfied that it would not make a difference of a quarter of a cent or one-eighth of a cent in the portion of the commission which we would be allowed and the portion which they would retain for the other services. In other words, we consider that that difference between our commission and the 6 cents is compensation for other much more important services which they render for us than the drums. And we are equally certain if the drum service was eliminated to-morrow, supposing to-morrow there was an Order-in-Council or an edict that not one more drum should be provided in this Province, we are satisfied it would not vary or change the price structure to the farmer

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at all and that, therefore, there is no discrimination as between our members and others. They would not in fact pay anything for this service.

THE CHAIRMAN: I just want to say, Mr. Brownlee, while you minimize it greatly, there are those who say it is important. Mr. Miller of the British American Oil Company says, for example - and I speak subject to correction - that they have an investment of about $800,000.00 in these drums. That is quite a sum of money.

MR. BROWNLEE: It is, and the Imperial Oil-----

THE CHAIRMAN: And has quite a bearing upon the earnings and operating expense of that company.

MR. FRAWLEY: The price leader - it is important apropos of what you say - that the price leader has writtan down his drums to almost nothing. That just happens.

THE CHAIRMAN: Yes, but he has paid for them.

MR. FRAWLEY: The price leader has been paid over the years. The other companies have to follow the price leader.

MR. BROWNLEE: I would doubt if the British American Oil Company - and I speak with the greatest respect of that company - I doubt if the British American Oil Company would care to make a definite undertaking that if you would discontinue the practice of distributing drums in this Province that they would reduce the price of gasoline in the Province a quarter of a cent or an eighth of a cent a gallon.

THE CHAIRMAN: I am just pointing that out to you. I do not say at all what we recommend or suggest. But I am just pointing out to you you minimize the thing as being trivial, and it has not appeared so before us from the major

companies.

MR. BROWNLEE: Haven't you taken me just a little wrongly, My Lord. Is not my point rather this, not that it is trivial. It involves a substantial initial outlay. But trivial in the manner in which it worked out as to the percentage per gallon of the amount of gasoline that is distributable annually over the period of the lifetime of the drums. I do not suggest that the outlay that the British American Company has made is trivial. $800,000.00 is $800,000.00, and that is a large amount. But I am suggesting that if the lifetime of the drums is taken into consideration and if you take into consideration also the losses under a careful demonstrated scheme of trying to avoid disappearances, that when you work that out and work it out on the volume of the farmer business, I still am inclined to think it would work out as trivial, a comparatively trivial amount, coming down to say one-eighth or a quarter or something like that, of a cent. In other words, our point is not that it does not involve money but it is a bothersome thing to us and I say if we looked at the matter purely from our interest as distributors and nothing else, then we would do away and would like to get rid of it. But we do say it will not change the price of gasoline to the consumer. We do say it is not a vital thing in the price structure and having regard to the conditions in this Province to-day we think that more harm than good would result, so far as the farmers are concerned, if there was any attempt made to stop it immediately and we think the better way is to leave it to the distributing companies themselves. That is our viewpoint, whether it be right or wrong, and that is what we have to submit for the

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judgment of the Commission.

MR. COMMISSIONER LIPSETT: Do you happen to know what is the practice as to containers in the case of creameries?

MR. BROWNLEE: The practice has never developed there at all in the Province. I act for a number of co-operative creameries but I have never gone into it. But I understand the farmer has always from the beginning, with respect to creameries, has furnished his own cans. Now, mind you, there may be a reason for that in the case of a creamery, which would not apply in the case of drums for gasoline. Because, in using containers to distribute gasoline, after all you do distribute a rather standardized product. That is, you won't have variations between one container of gasoline and another. But when a farmer is sending his cream into the creamery there are a number of factors that are of vital importance that make it necessary that he should probably own his own cans. There is the condition of cleanliness of the can itself, how it has been cleansed before the cream goes into it; and every can may test out differently so far as butter-fat is concerned.

The position of my client is very much the same with respect to the so-called free delivery system which has been the subject of much discussion with many of the witnesses who have appeared before this Commission. We have studied with much interest some of this evidence but have seen no reason to alter the opinions expressed in our previous submission. We still somewhat stubbornly adhere to the view that the term is a misnomer and that the farmer in fact pays for the service in the extra cent paid over the dealer's price and that this extra cent is largely transportation cost. In no sense can the cost of delivery be said

to be reflected back upon the refinery or distributing organization which receives the same price at any specified point whether the commodity is sold at the dealer's price or at the delivery price. This practice has become well established and while any distributor, considering his own interest only, would no doubt be glad to have the practice changed still speaking as a farmers' organization and representing many farmers in the Province we would hesitate to suggest any change. Admittedly the practice serves to place the farmer residing some distance from a distributing point on an equal footing with farmers residing close to or adjacent to such point and may therefore appear to take away from the latter farmer the advantage which otherwise his geographical position would give him. The farmer living some miles from such a distributing point is not there entirely of his own volition. Our farm economy in Western Canada is such as to make certain large holdings inevitable and we have to face the practical reality that possibly a majority of our farmers live at some distance from a distributing point. The present delivery system does serve to pool the transportation costs among farmers served from any particular point in the Province and is in accordance with a principle which is part of the philosophy of the farm organizations. Moreover on account of the comparative shortness of our seasons from seed time to harvest and the uncertainty of weather conditions, particularly during the harvest season the delivery system does serve to supply the requirements of farmers without unduly disorganizing or delaying their harvesting operations. This is particularly true in a season such as that through which we have just passed when, on account of frequent rains and early snows,

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our farmers have experienced the utmost difficulty in harvesting their crops and every hour saved for harvesting operations meant a great deal to the individual farmer.

If I may just interject there to point out that in taking the position as an organization that the present system is co-operative in its nature and it is a pool delivery expense without regard to geographical position, we are taking the logical position because for years as a farm organization we have been engaged in fighting the importance of strict adherence to the geographical idea throughout Canada. The whole fight with respect to freight rates on grain for years past by farmer gorganizations has been a fight against too close adherence to the geographical position as a factor in freight rates. Our fight for the distribution of coal in this Province is a fight against too great adherence to the idea of the advantage of geographical position. It is a disadvantage in this Province in both cases. And so we feel we are somewhat consistent in taking the position that if the present free delivery system does work out as pooling the delivery cost without regard to geographical position that we are not entirely inconsistent with the view we have taken in other matters.

We believe that certain alternative suggestions have been discussed such as that of two prices, a posted warehouse price of one cent less than the delivery price. We doubt very much - and we submit this with very great deference to those who suggest it - we doubt very much that this would prove any great improvement over the present system. We think the inevitable result would be that farmers living close to or adjacent to the delivery point would take advantage of such a posted price, leaving the agent

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to serve the outlying districts at the delivery price with the result that he might not be able to carry on under the present commission rates.

For example, if you take Leduc, in order to try and illustrate what I have said there. If you take Leduc as a typical point and you see that the dealer there may be supplying an area, a circle of some 15 or 16 miles roundabout and the two price policy was put into effect, you might have the farmers within the 5 mile circle taking advantage of the posted price and then the agent is left to try and serve the farmers from the 5 mile circle out to the 15 on the 1 cent that is allowed him. And there is just a question whether he can do it. He might refuse to do it and it might be that a regulation of that kind might put an end to the delivery system such as we have it. Obviously, if it is decided, if the judgment of those who are considering the question, should decide that the two price system should prevail, of course we will adhere to it. But I am voicing, I know, the views of those who are instructing me when I say that they cannot see the advantage to that, a very great advantage to it, and they would prefer to leave the delivery system as it exists.

MR. COMMISSIONER LIPSETT: I do not know if you saw the evidence that the Imperial Oil gave on the same subject. They say that they tried it out in Saskatchewan and they had complaints that that happened and that the agent found he had all the faraway deliveries to make and had not enough to do it. The people close by came in and took advantage of the reduced price.

MR. BROWNLEE: I did not know the Imperial had

given that evidence at all. The only copies of the evidence that I have attempted to look through are those that contained the evidence of Dr. Frey. I did not know that that evidence had been given. Certainly that is the viewpoint which my people have, quite independently of any viewpoint expressed by the Imperial.

We doubt if there is any widespread dissatisfaction among farmers with the present practice and we therefore respectfully suggest that it may well be left to work itself out according to the exigencies of the future. For whatever value our views may be we express the opinion that any attempt by regulation to do away entirely with the so-called free delivery service would meet with a great deal of resentment on the part of the farm population and we do not see sufficient merit in any alternative proposal to warrant any change in the present practice. We cannot see that it is an important factor in the price structure of the Province and prefer to regard it as an incident in our present distribution system which will probably work itself out as our farming methods are changed in the future and the demand for petroleum products increases.

MR. COMMISSIONER LIPSETT: Just on this subject, did you get an opportunity of being informed of the alternative system that has been suggested by British American, that is to establish a very substantially increased number of stations where the farmer can come without much practical inconvenience and draw his supplies; and that the delivery system be abandoned owing to the increase of these distributing stations?

MR. BROWNLEE: That was a matter that was discussed with my clients, yesterday. We have been watching

the experiment or the change made by the British American with a great deal of interest, of course. I am instructed to say there that we do not feel that we have been able to observe the result of that enough to express an opinion as to whether it is an improvement over the old system or not. And I am not expressing any opinion. Is that all on that point?

MR. COMMISSIONER LIPSETT: That is all, thank you very much.

When Mr. Priestley first appeared before the Commission there was a great deal of discussion as to the position of the jobber in the present scheme of marketing in the Province. As a marketing organization concerned in advancing our own ideas and ideals and our own methods of marketing we were and still are reluctant to enter into any extended discussion on that point. The jobber organizations have submitted their own views and are quite competent to speak for themselves. We only venture to raise the question at this time because of the connection of our own organization with Maple Leaf Petroleum Limited, which company will no doubt be classed as a jobber organization. We do not look upon the U. F. A. Central Co-operative Association Limited as a jobber organization but as the co-operative effort of our member farmers to purchase their petroleum requirements at as low a price as possible. At the same time we feel that in all fairness we should emphasize again the fact that the particular contract which our organization has with Maple Leaf Petroleum Limited was one of our own deliberate choice and preference and - we could have had a straight jobber's contract - that the arrangement entered into by both parties on a straight business basis

should not be disturbed or prejudiced. We have heard the suggestion made in some quarters that as Maple Leaf Petroleum Limited is wholly owned by Imperial Oils Limited and as its business consists very largely, if not almost entirely, of the business done with our organization there is really no justification for its existence as a jobber organization. Any such criticism of course reflects at once upon the nature of our own business and vitally affects the possibility of our organization remaining in business. No evidence whatever has been produced to show that the total margin available to that company and our organization exceeds the margins usually and generally allowed to jobber concerns so that there cannot be the slightest suggestion that the arrangement under which we are now working as an organization has had any detrimental effect upon the price structure of gasoline or petroleum products in the Province. On the other hand the arrangement has permitted our organization to develop itself as a co-operative organization in a substantial way and to become one of the important factors in the marketing of petroleum products in the Province and to develop that business with a minimum of capital and with a degree of financial safety which would not have been possible under any other arrangement.

We feel we might properly say further that the Imperial Oil Limited are deserving of credit rather than criticism for having made available a subsidiary company which has enabled co-operative organization to become established and to extend its operations fairly widely throughout the Province, at many points in competition with its own agencies. We also are confident that this Commission

will have every sympathy with the viewpoint that our organization may safely be entursted to determine whether at any time in the future we should seek to enlarge our operations so as to take over any of the functions which are now being performed for us by Maple Leaf Petroleum Limited, particularly when we again emphasize the fact that there is little, if any, duplication of effort between that company and our organization.

In our previous brief we indicated the growth of our organization since 1935 when we had a volume of only 369,C90 gallons - it is true that is for part of that year only - to 1938 when we had a gallonage of 3,494,768. For your information we may now supplement that statement by saying that at the end of the fiscal year, October 31st, a furtner increase was shown over 1938 and the sum of $22,000.00 was set aside for the payment of dividends to purchaser customers which means that before Christmas this co-operative will have distributed approximately $105,000.00 in dividends since it first entered upon this branch of co-operative activity. While this amount may not appear large in view of the total gallonage distributed in the Province, still it shows decided progress and indicates clearly the value of the co-operative method of distributing petroleum products and particularly in effecting some reduction in cost to the farmer consumer.

There can be no question that the co-operative system of distribution is effective in reducing cost. In an address before the Wheat Pool delegates in Calgary recently the claim was made on behalf of the co-operatives of North Dakota by the President of the

Farmers' Union of that State - I have the address here, as a matter of fact - that the co-operatives of North Dakota had saved farmers some $46,000,000.00 in the past ten years in their expenditure on petroleum products. Similar claims, although to a much smaller degree, having regard to their comparatively short experience, - and the comparative population - are advanced by the Saskatchewan farm co-operatives. That these claims can be fully substantiated may be doubted by some, but none can deny that very great savings have already been effected, giving ground for the belief, that when the financial structures of the co-operatives in Canada have been soundly established, they will be a genuine factor in reducing farm operating costs in petroleum products as well as in other commodities.

We have reason to believe further that the surest way of preventing abuses or unsound practices in the distribution of petroleum products is in the long view by encouraging the development of co-operative enterprizes. In advancing this view, as a farm organization, we can look back over thirty years of history of the grain trade in the West. That period has witnessed the development of strong co-operative organizations commencing with United Grain Growers Limited in 1907 and culminating with the organization of the Wheat Pools in the three prairie Provinces. These organizations working with the other farm movements were largely instrumental in formulating the present Canada Grain Act and in having established the Board of Grain Commissioners for Canada. We doubt if any grain company would say to-day that there is undue interference in the business conducted by it.

[illegible] notes, [illegible] [illegible] Lake [illegible] than \$46,000,000 [illegible] [illegible] in [illegible] [illegible] contracts. Similar [illegible] [illegible] regard [illegible] [illegible] the [illegible] native [illegible] [illegible] substantiated [illegible] [illegible] savings have [illegible] [illegible] the [illegible] the co-operatives in [illegible] they [illegible] [illegible] in [illegible] [illegible].

[illegible]

[illegible] or [illegible] [illegible] [illegible] co-operative [illegible] this view, [illegible] [illegible] history [illegible] has [illegible] [illegible] organization [illegible] in 1907 and [illegible] [illegible] [illegible] the other [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] business [illegible].

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That is by the Board of Grain Commissioners to-day. The straight line companies and the co-operatives, although in strong competition one with the other, meet together in a sort of mutual respect.

It is interesting to note also that although a number of enquiries have been held into the grain trade in its various branches, when Mr. Justice Turgeon conducted his enquiry within the past two years, in all his itinerary throughout Western Canada not one farmer appeared before him to voice any complaint in the actual handling of his grain. The entire attention of every witness was directed towards the problems of external marketing. We feel therefore, we can safely assume that to the same extent farmers' co-operativees can work side by side with other concerns in the distribution of petroleum products and exercise an important influence in maintaining the business on a proper basis having regard to the important interests of the consuming public. We trust therefore that in any recommendations which this Commission may make, the interests of co-operative organizations will be amply safeguarded and every encouragement given towards their future growth and success.

The past fall has proven a difficult one and the experience of our organization during that period fully justifies the judgment of its Board of Directors in deciding upon the particular form of contract under which we are working and our relationship with Maple Leaf Petroleum Limited.

This brings us to a consideration of a question which possibly has not received much attention from witnesses who have appeared before the Commission.

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We have already referred to the fact that largely speaking we have a one-sided agriculture. Tens of thousands of farmers depend mainly upon cereal crops, chiefly wheat. During the period of settlement in this Province, farmers have absorbed most, if not all, of their earnings in paying for capital improvement and buying machinery while in recent years prices for commodities have fallen to all time low levels and a difficult debt situation has arisen. Until prices substantially improve there will continue to be a constant demand for credit. It is in fact a question as to whether credit under any conditions in Western Canada is not indispensable. Certainly in recent years the average farmer has approached the harvest season without any reserve of cash, and credit in large amounts has been indispensable, however much distributing organizations may endeavor to keep themselves on a strictly cash basis. Notwithstanding all instructions to the contrary agents do allow credit and credit losses may be reflected in shortages in their accounts. On account of the weather conditions prevailing over a large part of this Province since the commencement of harvesting operations this year and also because of the difficulty of obtaining storage facilities, payments on accounts have been delayed. We doubt if anyone will seriously maintain that any legitimate expenditures entering into the harvesting of a crop should not be a preferred charge upon the proceeds of that crop. We do not single out petroleum products as the only product entitled to such preference and are quite prepared to concede that there are others. Some time ago provision was made in the Bills of Sale Act for the taking and registering

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of a Bill of Sale for necessities, but this has proven somewhat cumbersome and little advantage has been taken of this provision. We suggest that if this Commission could see its way clear to suggest that some simple form of statutory lien might be provided for such necessities much of the element of risk now attending the furnishing of credit and a very considerable element of cost in distribution would be eliminated.

Your Lordship will of course appreciate all the difficulties that surround a bill of sale and make it a very awkward document to take. I want to say there in making that suggestion we are not speaking so much ourselves as a co-operative concern, or we are not speaking so much for other distributing organizations. We are speaking there principally for the agents, because after all it is the agents out in the country who have to take and do take very much the brunt of the losses, although of course they do come back to the distributing company.

MR. COMMISSIONER LIPSETT: Is there not some system that has been brought in recently, Mr. Brownlee, similar to what you recommend, in connection with the automobile industry - for repairs or something. Do you happen to know anything about that?

MR. BROWNLEE: If you are referring to the Bill that was passed at the last session or two sessions ago giving a lien-----

MR. FRAWLEY: A garage man's lien.

MR. COMMISSIONER LIPSETT: A garageman told me-----

MR. BROWNLEE: That is the Garage man's Lien. It was passed at the last session or two years ago. It goes very far in giving a lien upon a car whether it is in or out of a garage, for repairs which have been made upon it.

MR. COMMISSIONER LIPSETT: He told me they were very anxious to get this to give some time for the payment of repairs, having regard to the Statute. I do not know what it was. Was it something like that you had in mind?

MR. BROWNLEE: What I had in mind was this, that instead-----the principle has been established. It is not a new principle because away back in 1925 or 1926 probably - I think it was before 1930 anyway - when the Bills of Sale Act was amended to allow for a bill of sale for necessities on growing crops. That is, a bill of sale on growing crops for necessities.

MR. FRAWLEY: Section 16.

MR. BROWNLEE: Section 16 of the Bills of Sale Act. You will understand, Mr. Commissioner, under the old law, prior to the time of the passing of this amendment, that a lien on growing crops could not be taken, or a bill of sale or a chattel mortgage. So an exception was made to that by amending the Act and providing for a bill of sale on growing crops to secure necessaries. That is, for groceries, binder twine, and it would include fuel oil. The bill of sale provision is awkward. Affidavits have to be taken. There are many technicalities surrounding the whole question of bills of sale, with the result it has been very little used. What we are really suggesting is that that might be replaced by something in the form of a simple Statutory lien, very much the same as the Government uses in connection with the distribution of

seed grain at the present time under our Seed Grain Act. You will find it is a very simple short form of lien and then the Act goes on to say what the priorities are with respect to that lien. We think if some very simple form of lien of that kind could be made available to our distributing organization it will not be objected to by the farmers. Because the farmer wants to pay. He will pay for these immediate necessities to the extent he is protected from some other creditors. But in many cases other creditors, earlier creditors, mortgage companies and others, may step in and prevent him from carrying out what he fully intends to do and then it is reflected back upon the agent of the oil company. So that is a suggestion that we throw out if it is considered by the Commission as worthy of consideration.

THE CHAIRMAN: That applies to the whole trade, of course.

MR. BROWNLEE: Oh yes. We do not ask for any particular preference there. I think that the agents out in the country this year, I think all companies will agree that they have been put in a very difficult position. You take the line between here and Edmonton, say from Olds up to Ponoka or Wetaskiwin at least, where it is only recently that they have been able to get their crops threshed. Payments have been delayed and very greatly delayed and the whole situation has been made extremely difficult. The low price situation makes it more difficult still. Now, here I want to digress from what I have written and to deal with a subject that I had not intended to deal with at all when I first came down. But we thought probably you, My Lord, and Mr. Commissioner, might wish to have our view on that subject

and that is the whole quewtion of the gasoline taxes and exemptions and possible laws.

THE CHAIRMAN: That is one of the things I have noted to ask you about, is the whole subject of taxation, which you, no doubt, will be well able to speak on, not only as a representative of your organization but because of the study and experience you have had in connection with the problem. Well, we will start at two o'clock.

(At this stage the Hearing was adjourned until 2:00 P. M.)

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2.00 P. M. Session

MR. BROWNLEE: My Lord and Mr. Commissioner, before we adjourned I had tried to express the viewpoint of our organization on such matters as drums and free delivery and made some observations on the co-operative nature of the organization.

During the adjournment on the question of drums, without wishing to go back and spend any time on it, a rough calculation was made which might throw a little light on what, just how it fits in with the price structure. If you take an average of 10 years for a steel drum, which we think is quite short, and a turnover of 8 times a year, which I think most of the companies will agree is a fair average and that makes a turnover of 80 times for the drum and 45 gallons, making a handling of 3600 gallons during the 10 years and as I say, we think that is a low average ---

THE CHAIRMAN: Except for the fact that they say they do not get the turnover. The farmers use these drums quite indiscriminately. They do not buy their oil from the people from whom they get the drums, necessarily.

MR. BROWNLEE: I think that was the experience at first because, and I want to be a little careful about what I say here because I do not want to be voicing any criticism at all ----

THE CHAIRMAN: Mr. Plotkins brings it right up-to-date, he told us yesterday that he uses any drum which comes along.

MR. BROWNLEE: Well, Mr. Plotkins may.

THE CHAIRMAN: That he has not bought any for

years, eight years.

MR. BROWNLEE: He may. I do not know Mr. Plotkins' method of doing business and I cannot make any statement about that but it is the viewpoint of our organization that the drum situation did not arise exactly through a demand and we think that there could have been and still can be, and we think that we, as an organization, are making a much better check-up on the whole drum situation than prevailed when the system was first introduced and we think that the whole question of loss can be minimized and we think in the estimate we made here of the estimated life of 10 years that we are making allowance for losses and putting it on the basis of 3600 gallons with a cost of $8.00, which works out at .22 cents which is, .22, which is less than a quarter and possibly on another basis of calculation that you may use, we doubt if you can bring the cost of drums over the life-time of the drum, over the average life-time, we doubt if you could make it higher than 1/8th to 1/5th of a cent, certainly not more than a quarter.

MR. HARVIE: Our evidence on that is .26 cents, which is just over a quarter, the experience of our Company.

MR. BROWNLEE: .26?

MR. HARVIE: Yes.

MR. BROWNLEE: Which rather checks up with our figures.

MR. FRAWLEY: And which, according to some points of view, might look like a great deal of money when we start to try to shade the price of gasoline, a quarter of a cent looks like a mountain.

MR. BROWNLEE: And with all due deference to what has just been said, I want to suggest this, that the

[illegible]

drum situation in this Province is probably very much interwoven with the free delivery system. A farmer phones in for gasoline during the harvest time which has to be delivered. It is very doubtful if you can make any arbitrary cut-off of a system that has been developed over the pioneer days of this Province without possibly also dragging down another practice very materially which is the free delivery system and again, I suggest, and it is only to put before you as clearly as I can, the viewpoint of our own organization ---

THE CHAIRMAN: I suppose you say, Mr. Brownlee, if you have not already said it, that this was something really foisted upon the farmer because of the anxiety of competitors to get their business, rather than the farmer demand requiring it to be done?

MR. BROWNLEE: Well in my argument I put it on three grounds, I do not want to load the responsibility on the companies entirely, I think that first of all it is the outcome of a scheme of delivery in the pioneer days, as Dr. Frey said at one time existed in the United States, about drums; I think secondly there was a period in the history of this Province when there was an intensive effort made to educate the farmer into the use of gasoline as a fuel oil for his machinery and a quite justifiable use of the drums may have been auxiliary or part of the efforts of the company to educate the farmer into the use of gasoline as a fuel and thirdly, I do think that there was a time in this Province, and I doubt if any of the major companies or any of the companies will dispute it, when there was a very, very intensive competition, when competition was very intense between them and that in their anxiety to get the farm

business, I think the drum situation was used. The farmer himself, I am not trying to relieve him of all responsibility but I think that with truth we can say that this practice was developed in this Province first, because of being a very convenient and handy way of dealing in a pioneer district and secondly as part of an educational scheme to try and educate the farmer in the use of gasoline as a fuel and to some extent the competition of the companies themselves. Now it is clear that we are in the worst time of the history of Alberta today to make any change which takes an additional $5.00 bill from the farmer. Mr. Commissioner, I think that I have been in fairly close touch with the farmers of Alberta for some years and certainly I have never seen quite as much real discontent in the country as there is at the present time. It is there and we have to face it and I do think that it is a bad time to make any change in the existing practice which has grown up in our pioneer days unless there is some very striking and some very real reason for it and on the evidence given by the British American, the statement just made by Mr. Harvie, as to how it works out in their case and on our estimate, it just gets down to this, is it of sufficient importance to make some arbitrary regulation which is going to cut it off, or even to say that there will be no more additional drums, or is it not better to leave this as one of the things which will unquestionably be worked out by the companies themselves as we develop. If the price of wheat say, should increase to $1.00 a bushel or $1.25 a bushel next year we should have an entirely different situation and the change might be made then, which now would arouse a very considerable amount of resentment at the present time

and so we just come before you as a farmer's organization and say to you that we think that the drum question is one that is better left to just, let the companies work it out as they unquestionably will over a period of years rather than to make any regulation now which would be to make an early determination of the whole question.

MAJOR LIPSETT: Mr. Brownlee, on the question of the figures you have just given us, as you have that worked out, you estimate that 3600 gallons are used over the 10 years per drum?

MR. BROWNLEE: Yes.

MAJOR LIPSETT: Which means 360 gallons a year per drum?

MR. BROWNLEE: Yes.

MAJOR LIPSETT: Now on a saving of a quarter of a cent on that, that means $90.00, does it not, or is it $9.00?

MR. BROWNLEE: $9.00.

MAJOR LIPSETT: $9.00, so that on your theory the farmer would save $1.00 a year?

MR. BROWNLEE: Oh, he might on that basis, yes, if you show it that way, if you show it that way.

MAJOR LIPSETT: I was wondering what you thought about that?

MR. BROWNLEE: My answer to that is that there will not be a quarter of a cent saving. My answer is, and I will venture this opinion without any hesitation, that, do away with these drums and you will not change the retail price of gasoline to the farmers of this Province by a quarter of a cent a gallon.

THE CHAIRMAN: Well, supposing you could, would

you welcome it in lieu of drums or would you be against it?

MR. BROWNLEE: I think the figures work out at 90 cents, do they not?

MAJOR LIPSETT: Well, I was doing it very roughly, it is 360 gallons.

MR. BROWNLEE: 360 gallons.

MAJOR LIPSETT: One quarter of that.

MR. BROWNLEE: 360 and 1 cent would be $3.60 and a quarter of 1 cent is 90 cents.

MAJOR LIPSETT: Well, that is 90 cents per year for ten years and that is $9.00.

MR. COTTLE: The explanation of that is that Mr. Brownlee's figure is not really a quarter of a cent, it is .22.

MAJOR LIPSETT: I understand that but the British American was just over a quarter.

MR. COTTLE: Oh, yes, on the British American figure. The Imperial's figure on the same basis was about .12 cents, due to the greatly depreciated investment they have in the drums.

MAJOR LIPSETT: I was going to say that to Mr. Brownlee, that it was really part of his argument perhaps, that these figures would be taking it on the new cost of the drums whereas I suppose you say the drums are there in existence today and very much depreciated.

MR. BROWNLEE: They are very much depreciated.

MR. FRAWLEY: And only the Imperial will change the price. They are the price makers, and if it is only .12 cents it is negligible.

MAJOR LIPSETT: May I put this other point of view to you, supposing you were free to go out and make another deal, and instead of going to the Maple Leaf you went to the British American or some other company and said, "Now look here, we have been getting free drums and we are getting a certain commission but we want to get a better commission and in lieu of that we give up the drums," do you not think you would get some reduction?

MR. BROWNLEE: No, not a quarter, not a fraction of a percent.

MAJOR LIPSETT: That is your view?

MR. BROWNLEE: That is my view and I base that upon the negotiations of, two consecutive periods of negotiation in which we have negotiated our contracts and renewed them.

MAJOR LIPSETT: You have a very depreciated value in the drums and ---

MR. BROWNLEE: I think I am certain in saying that in all these negotiations the question of drums was not a factor at all.

Now My Lord and Mr. Commissioner, with very great hesitation I enter into a discussion of the tax situation in the Province of Alberta and make some observations, again from the standpoint of the farmer's organization.

First of all I will read something which I have prepared here and possibly add to that orally.

We understand that opinions have been voiced before this Commission by a number of witnesses with respect to the Gas Tax, the Gasoline Tax or the Fuel Oil Tax, I think, is the proper name, and the Exemption now enjoyed by farmers along with other users of gasoline for

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industrial purposes. A number of suggestions by way of changing this tax are raised from time to time, not only before this Commission but otherwise in the Province, and some of which have no doubt been advocated here. The most frequent suggestion is that the tax be reduced to, say, four cents and no exemptions be allowed, and I might just say here that upon a calculation of the consumption of gas in this Province last year with a straight tax of 4 cents a gallon, with the elimination of the exemption, that a straight tax on all gasoline of 4 cents would bring more money to the Government than the tax of 7 cents with the 6 cents exemption so that we do face that fact, and I may also say that in the years in which I was somewhat engaged in the administrative work in the Province that this suggestion of eliminating the exemption and reducing the tax was one that was very frequently put before us. I will deal with that in a moment.

Another suggestion recently expressed is that distillates and similar sub-third structure products be exempt, doing away with the exemption on higher grades.

Now first of all I want to deal with the equestion of exemption ---

THE CHAIRMAN: Mr. Brownlee.

MR. BROWNLEE: Yes, My Lord.

THE CHAIRMAN: Another thing, and that is the broader question, as to whether or not gasoline should be taxed at all, recognizing that the Government must have revenue, should it get its revenue by imposing a more general tax applicable to all people or does the theory

of road tax stand? Now that too has been raised and on which we would like the benefit of your views, is it sound to pick out an industry and say, "How much can we get out of it", whether it is through its consumers or not, it is one way or another, it is a tax on petroleum and its derivatives. Now does a general sales tax or a variation of the requirements of payments on income meet that better or any other taxation scheme that may be devised, that is the bigger subject again, on which we would welcome your views?

MR. BROWNLEE: Well ----

THE CHAIRMAN: Which is in before us.

MR. BROWNLEE: Yes, I understand, I have touched on that question a little bit later.

THE CHAIRMAN: Oh, well, very good.

MR. BROWNLEE: And if I might, My Lord, what I would prefer to do, is, to keep my own thoughts in order, if I might deal with the question of the gasoline first under the existing taxation and then I will come to that and I will make such observations as I think I can offer to you.

THE CHAIRMAN: Very good.

MR. BROWNLEE: Speaking on behalf of a farmer's organization, we are definitely opposed to any change that would result in a tax being imposed on gasoline products used in tractor or other power machinery on the farm. The farmers are satisfied with the present arrangement which gives them a six cent rebate on all such products and see no reason for a change.

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Now that statement may have to be modified slightly and I will mention it in a moment.

It cannot be too emphatically stated that the western farmer cannot be made the subject of any further levy on the cost of production; certainly not with the present level of prices.

The farmer is not the only class that obtains the benefit of this exemption. Any person, firm, or corporation using gasoline for industrial purposes obtains the same benefit. The dry-cleaner is exempt the same as the farmer, except that he may be exempt altogether, yes.

The policy of exemption is entirely consistent with the origin of this tax which was to assist the state in the construction, maintenance and upkeep of roads.

Now, My Lord, probably this is as good a place as any to deal with the question which you raised and I think the only contribution I can make is to say that unquestionably the origin of the gas tax, the fuel oil tax which exists now in every Province in Canada and so far as I have been able to learn in every state of the Union, it was a contribution by those who used roads to assist in the maintenance and upkeep of those roads; that is the only ground, of course, that it could be put upon in singling out one commodity as a subject of a special levy.

THE CHAIRMAN: That being so, why should you pay any tax, any tax, why pay 1 cent?

MR. BROWNLEE: That is build the roads out of

[illegible]

[illegible]

[illegible]

general revenue and take it by way of a general sales tax?

THE CHAIRMAN: No, I am accepting your theory for the moment for the purposes of this discussion, that the reason for making the tax at all is that the roads are kept up out of the money that comes from the taxes, at least to the extent that these monies will do the work. Now, even a dry-cleaner, the man with a stationery engine in his factory and the farmer with a tractor on the farm and the other farm implements, the other farm machinery on his farm, is not using the roads, so why should he pay even 1 cent? He is paying 7 less 6, which is 1, why should he pay 1 on your theory? Perhaps he should not.

MR. BROWNLEE: Logically there is very little justification for that 1 cent and if you will examine the accounts of every province you will find that in Saskatchewan they rebate the whole tax; in Ontario with an 8 cent tax they rebate the whole tax; in many of the States of the Union you will find that they rebate the whole tax; now the only way in which the 1 cent which is retained by the Government here can be justified at all and the history of the tax shows that this was the reason for it, is that there is a certain amount of work, extra work thrown upon the Department in deciding upon the exemptions; quite a considerable amount of clerical work. When the fuel oil tax was first put on, it was on a 2 cent basis and then the history of the tax showed that it continued on a 2-cent basis until 1927 when it was raised to three; in 1929 it was raised to 5 and 1933 raised to 6 and so forth and up until ---

THE CHAIRMAN: When did it get to seven?

[illegible]

[illegible]

[illegible]

[illegible]

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MR. BROWNLEE: Seven was in the latter part, the last three months of 1935, right after the seesion of 1935.

Now when the tax was first imposed, of course the theory of the rate paid was there, that is that it should not be imposed upon industrial users with the result that the rebate at that time was handled in this way, that a six months' period was allowed from the time the gas was purchased in which the purchaser could make his application for a refund and his application had to be made on a regular form, copy of which I have in my hand, and on which he had to show the make of his car, the license number or if it was a truck, the same information or if it was a tractor he had to show the type, make, capacity and general information about that. He had to set out the number of acres which he had farmed that year, how much he had drilled and how much ploughed, how much new breaking, summerfallow and so forth, the total number of gallons he had purchased and other information which was contained on the form and that application was sent into the Department with his request for a refund and it was checked. Now that involves a very considerable amount of clerical work and so as I say, rightly or wrongly, and probably with very little logical justification, from a taxation standpoint, the Government felt that in order to compensate itself for the clerical work, the extra clerical work which was involved in making those refunds, that 1 cent a gallon might be retained by the Government simply to pay that expense and that is the only justification for the 1 cent which is still left at the present time, where we have a 7 cent tax and

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a 6 cent rebate.

THE CHAIRMAN: They are paying the cent, all farmers are paying the cent?

MR. BROWNLEE: Yes.

THE CHAIRMAN: To pay for the necessary clerical work?

MR. BROWNLEE: Yes, to handle the whole question of refunds.

THE CHAIRMAN: To see that there is no tax evasion?

MR. BROWNLEE: Yes.

THE CHAIRMAN: By using gasoline, in short all farmers are required to pay a cent to have a check on the honesty of farmers, that is what it comes down to, is it not?

MR. BROWNLEE: Pardon?

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THE CHAIRMAN: All farmers are required to pay 1 cent to provide a check on the honesty of farmers.

MR. BROWNLEE: And to some extent on others who may have the same exemption.

THE CHAIRMAN: Quite so.

MR.BROWNLEE: Well, that is the history of it, and inasmuch as it started at a time when I was somewhat responsible, I do not suppose I am very competent to stand up here and justify it. That is the history and that is all I can say. There is just this about it, that you do find that one cent retention in other places besides Alberta. Obviously the farmers' organization and everybody else will be glad to see that 1 cent done away with and a complete rebate given as is given in Saskatchewan and in Ontario. I am not sure about the Maritime Provinces.

THE CHAIRMAN: How do you feel about what they are doing in Saskatchewan? They colour the farmer fluid don't they?

MR. BROWNLEE: I touch on that in a later place. That brings up the question of evasion. Unquestionably there is evasion. We may as well face it. I do not place the figures, personally, as high as they were placed yesterday at 20%. I think that is altogether too high. But we have to admit that there is evasion.

THE CHAIRMAN: It has been suggested either in or outside of this room, I am not sure which at the moment, that there was a loss to the Province of a quarter of a million dollars by tax evasion. Would you think that reasonable or absurd?

MR. BROWNLEE: I would not want to put it that high. I doubt if the Departmental officials

would place it that high.

THE CHAIRMAN: It appears to be serious anyway.

MR.BROWNLEE: I may say that you will find that Mr. Trowbridge and his officials are probably as experienced as any we have in the Civil Service of the Province, and I would be inclined to accept any views he expressed. I would doubt very much if he would put it as high as $200,000.00. It is an indefinite thing. We admit there is evasion, and of course, it may be that the amount of the evasion depends upon the way in which the refund is made. As I say when we first started out we did not, we only gave a refund after purchase and upon proof that it was used.

THE CHAIRMAN: Putting the burden of proof where it should belong?

MR. BROWNLEE: Yes. It is not just because that was the practice which we followed, which causes me today to make the statement that I think possibly from the standpoint of evasion that it was a better system than the present. On the other hand there was very strong and continued objection to that practice which I think was the cause of the changes being made elsewhere. So down in the United States after a time they departed from the same principle. They used the permit system there. Many of the States use the permit system today by which a farmer has a permit much the same as a man may have a permit today under the Liquor Act. Then later on......

THE CHAIRMAN: Now that is interesting. I had not heard of that. Does that permit put a limit

upon the amount he may have?

MR.BROWNLEE: Yes. He has to have recorded on his permit every purchase, as I say under the Liquor laws of today.

THE CHAIRMAN: But does the permit permit of his buying so many gallons, a maximum of so much or he may buy all he likes?

MR. BROWNLEE: I would not want to be too sure of that. My opinion is there is a limit for general agricultural purposes, and that that limit is based on the view that he is to be supplied with.....

THE CHAIRMAN: To suit the individual requirements?

MR. BROWNLEE: To suit the individual needs, his needs as a farmer.

THE CHAIRMAN: According to what that man's individual requirements should be.

MR.BROWNLEE: The difficulty about that is a man might use the permit for buying gasoline for other persons and there may be some evasion there. In any event, in Saskatchewan a few years ago they evolved the idea of the coupon by which an application is made - and I have a form here, - starting in 1936. Application is now made by the farmer for a certain coupon which enables him to buy a certain quantity of gas on the 6 cent basis. I think possibly the coupon system has resuled in more evasion of the tax. I think probably that would be admitted in Saskatchewan and here. On the other hand it has got over that difficulty which was the cause of very serious complaint while the other scheme was in effect.

That farmer might have

to wait for six months after making his payment before he got his refund and in days when money was scarce, the scarcer the money the lower the price and the more intense was that discontent and dissatisfaction. At any rate in 1936 the practice was changed in this Province. Now there is unquestionably evasion. It is a problem of administration. It is not peculiar to the gas tax. Those who administer our Income Tax laws, both Dominion and Provincial, would testify that there is a very great problem in administration and in checking up on tax evasion. You know it is a rather strange trait of the human character that many men who are otherwise perfectly honest and upright in their dealings, do not hesitate to chisel a little bit on governments if they can. It is not considered a moral offence in the same way. So that I say if there is tax evasion in the Fuel Oil Tax, it is not peculiar to that tax. There is with respect to all taxation.

MR. FRAWLEY: Customs duties.

MR. BROWNLEE: There is with Customs duties. And so I do not think that generally the practice, if it is serving the greatest number, I do not think that it should be criticized too strongly on the question of evasion. Now as to how to get around that evasion is a most difficult problem. In two parts of the world, so far as we know today, two parts of the North American Continent, they have been experimenting with the coloured gas. New Mexico and Saskatchewan. New Mexico since either the late Fall of 1937 or the beginning of 1938, so that they have not had more than two years' experience now, Saskatchewan is still in the first year.

With the different colours of gas that are already being taken by the different companies with their standard products, there is only one colour that is left and that purple, unless you consider black as a colour. So that any attempt to colour gas in any of these places is limited to purple gas. Now it is expensive. A newspaper clipping which I happened to notice in the Province of Saskatchewan a little while ago placed the cost of the dye alone in Saskatchewan at around $32,000.00. So that it is a rather expensive plan. Then there is the question of administration. We have over 40,000 miles of roads in this Province, and to attempt to make a check-up on 40,000 miles of highways would mean a lot of inspectors. I do not think that anyone should at this time say that the experiment may not be very successful. I know that both in New Mexico and in Saskatchewan the authorities at the present time are quite enthusiastic and state that they have found the answer to tax evasion of the Fuel Oil Tax. I know that is the case in Saskatchewan and I have good reason to believe it is the case in New Mexico. And it may be the answer.

THE CHAIRMAN: I suppose they provide a strict penalty for offenders?

MR. BROWNLEE: Yes, a very strict penalty, and certainly it is an easy way of proof. If gas is found, any purple gas is found in a car on the highway, that is the answer. It is an easy method of proof in the case of a charge for a violation of the Act. I happen to know that the departmental officials in Edmonton have been watching the experiment every closely, and I fancy that the present viewpoint of the department as well as the Government is this, that they can probably

afford to wait a year and see a little bit more clearly from the actual dollars and cents standpoint as to just how well the experiment is working out there. It is very easy for example, to find out what the revenue from the gas tax has been in Saskatchewan year by year, and it would be fairly easy for them to judge by the comparative returns this year as to whether or not there has been a sufficient increase in the actual returns to warrant the extra expense involved in that particular experiment.

Now as far as our organization is concerned obviously we do not countenance tax evasion, and if it is recommended that some experiments of that kind be tried, we would not object to it. But we would like to point out this additional fact, that it does throw a very considerable extra expense upon the distributing company. I know that in Saskatchewan when they started to experiment there on coloured gas that they had to withdraw their instructions for a matter of six or eight months to enable the company to put in the additional tanks, and storage tanks in order to make provision for it. It would mean that most of the distributing companies would have to increase their storage by at least one additional tank at most distributing points. That is about all I can say on the question of tax evasion. I think the experiment of coloured gas is well worth watching. It may be the answer. At any rate, we have two places where the experiment is being tried and within a few months we ought to be able to form a fairly good opinion as to the success of that experiment.

However, we do want to make this position clear, and it is that the former.....

THE CHAIRMAN: To what extent would you

estimate that the farmers are using gasoline in their automobiles when they travel on the highways?

MR. BROWNLEE: That is something I cannot answer. We know that last year there was.....

THE CHAIRMAN: I mean a farmer is interested in his tractor of course. He is also interested in what he pays for gasoline when he goes to town.

MR.BROWNLEE: Quite.

THE CHAIRMAN: It just depends on how much he is using in each respectively. It might advantage him to have a low tax on gasoline that he uses in the automobile even though it increases the cost the other way. We have no evidence as to how it balances up. It would be idle to say the farmer does not use the roads. Where you drive on the roads it is the farmer you are meeting mostly, outside of the cities.

MR. COMMISSIONER LIPSETT: On your figures, Mr. Brownlee, he would be getting his gasoline for his car 3 cents cheaper and he would be paying 3 cents more for his tractor gasoline.

MR.BROWNLEE: Yes, but the average farmer, I do not think it works out that way. Last year there were 80,000,000 gallons according to departmental figures, consumed in this Province. Out of that 80,000,000 there was a tax on some 40 to 45,000,000 and so you have more gas being consumed in this Province for industrial purposes than you have used on the highways, and a very substantial part of that industrial gas would be gas used on the farm. The use of the high compression engine is becoming more and more a factor on our farms today, and therefore high grade fuels are more and more in demand.

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And I venture the opinion that any attempt on the part of governments in this Province to reduce the amount of the tax in the first instance, in any way that would throw a higher burden or any burden on the famrer for industrial purposes, would meet with the sternest resistance. It is something that the farmer simply says "I am engaged in business. I am growing wheat. Now why should I pay taxes on any commodity that enters directly into that cost of production?" It is an industrial use, and he will resent and resent very greatly anything which would throw more upon him than the 1 cent which he now pays.

THE CHAIRMAN: We are not at all concerned with his resentment. But is it sound? That is what we want to know. Is it sound? The Government may be concerned with his resentment, I can follow that.

MR. BROWNLEE: How do you judge soundness?

THE CHAIRMAN: Not by resentment. I think we all resent taxation.

MR. BROWNLEE: I will put it this way.....

THE CHAIRMAN: It is a question of fairness. Certainly being fair to the farmer and to everyone else. But not fair according to the strength of their protests. It is fair because it is justice as between all.

MR. BROWNLEE: My Lord, I think there is something back of that. I think there is a very elementary principle in all legislation that you cannot have a law which is not backed up by the sanction and the will of the people. Any time you put on the Statute books of this Province or introduce practices by legislation, which are not supported by the goodwill of enough people, it is doomed to failure. The history of our liquor laws in this Province is ample

[illegible]

proof of that. After all, politics is a matter of science of government and that science of government to some extent is the crystallization of the ideas of the people from time to time. I simply venture the opinion for what it is worth, that it would not be - well I will simply put it this way, that there is not in the first place justification for singling out the farmer and putting a tax on his cost of production.

THE CHAIRMAN: That is very different.

MR.BROWNLEE: Secondly, that any attempt to do so would, of course, meet with a very great deal of opposition. I rest my case on the first. The sugar grower is exempt. The dry cleaner is exempt. The packing plants are exempt.

MR. COMMISSIONER LIPSETT: That is for gasoline used in the plants?

MR. BROWNLEE: Yes, for their industrial purposes, carrying on their business.

MR. COMMISSIONER LIPSETT: Not for the gasoline that they use in their trucks for delivery to the railways, for example?

MR. BROWNLEE: And neither is the farmer to the extent that the farmer uses the roads of this Province. He pays his tax to the same extent that the lawyer pays it, or the doctor or the packer or the trucker. But when he goes on his farm with his farm machinery, that is propelled by power, then he is using fuel oil for industrial purposes, and I submit that in all justice and all fairness he should not be taxed upon that. And that is the reason why over a period of years no attempt or suggestion has been made.......

THE CHAIRMAN: That is just why I am wondering as to the soundness, I mean assuming that premise is sound, there seems something strange about taxing a class to provide machinery to keep some individuals in that class honest. I am wondering why that 1 cent should be there.

MR. BROWNLEE: As far as I am concerned I am not here to defend the 1 cent.

THE CHAIRMAN: There are jailsin this country for people that do not do the right thing, and why should one class be taxed for law enforcement. That is something that perhaps the whole country should be taxed for.

MR. BROWNLEEE: I am not here to defend that 1 cent at all. I have simply explained the history of it. I am not heré to defend it. I would say that those I represent would be very glad indeed to see that 1 cent tax removed as it has been in Saskatchewan.

THE CHAIRMAN: They could not have any resentment about that.

MR. BROWNLEE: No resentment about that, my Lord. If there is any resentment at all it would come if there was an attempt to reduce the tax to 4 cents and do away with exemptions for industrial purposes. I want to make it quite clear I simply outlined to you the history and how that retention of the 1 cent came to be there in the Statute Book. I am not here to defend it.

MR. FRAWLEY: $146,000.00 you know.

MR. BROWNLEE: If I were speaking here today as a member of a government or a member of the

Legislature I might try to defend it. I am not here today for that purpose. I am speaking for my clients and they will be glad of course to see a complete exemption as there is in Saskatchewan and in Ontario. Manitoba, I believe, keeps the 1 cent the same as we do to cover the cost of administration, policing if you wish to use that word.

MR. COMMISSIONER LIPSETT: Does it not rather appear that we have got away from the basis of the original theory of the tax, that it should be used only for the roads. I mean haven't we got to the stage where in fact it is being used partly for roads and partly for general purposes?

MR. BROWNLEE: Well there again to attempt to answer that I would have to possibly enter somewhat into the field of politics. I simply would point out to you that on Page 262 of "The Case for Alberta" you have a table setting out.......

THE CHAIRMAN: What is that called, Mr. Brownlee?

MR. BROWNLEE: It is "The Case for Alberta" that was prepared for the use of the Royal Commission. On Page 262 of that book there is a table.

THE CHAIRMAN: That was for the Rowell Commission?

MR. BROWNLEE: The Rowell Commission on Dominion and Provincial relations.

THE CHAIRMAN: Can you leave that with us, or could we get one?

MR. FRAWLEY: I have one.

MR. BROWNLEE: This happens to be the filed copy of our organization. We can easily get one.

MR. FRAWLEY: I will let you have mine.

MR. BROWNLEE: There is a table there, Table 1.

THE CHAIRMAN: On page?

MR. BROWNLEE: Page 262. It shows from 1905 down to the end of the fiscal year of 1936-37, it shows the expenditure for roads divided according to income, that is ordinary maintenance and repair, and capital, and then, as contrasted with that it shows the total amount received from motor licences and gasoline taxes, and the total. Now if you take the totals you find that in that period from 1905 to the end of the fiscal year 1936-37, there was a total of $42,027,722.00 collected from motor licences and from the gasoline tax. $24,000,000.00 approximately from motor licences, and $18,000,000.00 from the gasoline tax. And then you go over to the expenditure column and you find that during that time they spent on income accounts, that is for maintenance of highways, and interest, they spent $42,272,941.00. They spent in the same time for capital $37,000,000.00. But if we simply take the income figures, $42,000,000.00 as compared with $43,000,000.00, approximately the revenue from motor licences and gasoline taxes, certainly the government can, according to statistics, pretty well justidy the position that the revenue from motor vehicles and from gasoline tax - while it is not taken dollar for dollar, nevertheless the amount that comes into the general revenue from these two sources is balanced by the amount that goes out as ordinary expenditure from year to year on the highways.

MR. COMMISSIONER LIPSETT: Does that take into account - I have seen figures in the papers once or twice

and I was wondering if that takes into account the amount of capital expenditure that had been redeemed or could have been redeemed out of the motor taxation prior to 1935?

MR. BROWNLEE: No, I think this takes into account only the original expenditure and interest on capital bonds.

MR. COMMISSIONER LIPSETT: Without making any allowance for the taxation that had been paid from the time of the expenditure down to 1935?

MR. BROWNLEE: I did not get that clear?

MR. COMMISSIONER LIPSETT: Without giving any credit off that capital expended for the amount that could have been redeemed by the taxation in the intervening years.

MR. BROWNLEE: No. You see under the public accounts of the Province I think you will find that any redemption of bonds does not appear in the ordinary income and expenditure accounts, and that these figures which are taken from the public accounts from year to year represent the exact amount that has been spent from year to year on what we call ordinary maintenance and repair and upkeep and interest on the bonds that are outstanding, that have been paid that year and the bonds outstanding for borrowings for road purposes. That is the way this is made up by the auditor of the Province. This table was checked very carefully by the auditor before it was used.

THE CHAIRMAN: Does that carry with it the implication, the necessary implication that bonds upon which interest is paid are allocated to roads and the

money was spent on the roads and not in the general fund of the Province.

MR. BROWNLEE: To the extent the official auditor could make his certificate to that effect, and after all I suppose we have to accept that as the very best proof we can get.

THE CHAIRMAN: He does make a certificate to that effect?

MR. BROWNLEE: Yes. As I say again, I am just giving that information for what it is worth, That table I happen to know was prepared under the supervision of the Provincial Auditor who allocated that portion of the capital borrowings of the Province of which the money had been used for highway purposes, and his figures are first of all the money that was given or expended for ordinary maintenance upkeep and construction of roads. That was charged to income account and the interest on the bonds which had been allocated to highway construction. And as I say we have to admit on an analysis of that statement, we have to admit that if the auditor's work is correct then Government does appear to have an answer that that money that has come in from motor vehicle licences and gasoline taxes has in fact to an equal extent, or at least an equal amount of money, has been used for highway purposes and the taxes used for the upkeep of highways.

THE CHAIRMAN: There can be no reason then for their not earmarking that money for that purpose.

MR. BROWNLEE: No, there is no reason for it, my Lord.

MR. PLOTKINS: Does not them figures imply or try to make us believe that the motorists, since

it has become a fact in the last few years, shouldered all the building of roads, the pioneer roads for oxen and up to this date, and has to pay for them?

MR. BROWNLEE: No, I do not think so, Mr. Plotkins. You must remember that - again I do not want to be put in the position here today of trying to defend governments at all.

THE CHAIRMAN: I have known you to do that very ably.

MR. BROWNLEE: That is not my function, and I am under this handicap always that I do not want to appear to be engaged in a discussion that may seem to be political on my part.

MR. FRAWLEY: You have a lot of friends here.

MR. BROWNLEE: Highway construction in this Province is divided, The Province is responsible for certain roads which are classified as main highways only. The municipalities are responsible for the balance of the roads. The money that is charged against the motor vehicle licences here in this table is the money which the government financed and spent for the upkeep of that portion of the roads for which it was responsible, and they were the main highways; plus the grants which were given by them to assist the municipalities in building municipal roads since 1905. Of course, if you look at this table you will find they do not attempt to go back beyond the year in which the gasoline tax was put on. So that both the annual expenditure and the annual revenue in this table only dates from the day that the motor vehicle tax was first put on and the gasoline tax.

MR. COMMISSIONER LIPSETT: Is the capital expenditure only taken from that date also, Mr. Brownlee, or did they start with a large debit for capital expenditure?

MR.BROWNLEE: Well, it starts in this way. They say from 1905, any capital expenditure from 1905 to 1928 inclusive - as a matter of fact they do not go back to the year that the gasoline tax was actually put on - but they lump that all together at a total of $18,000,000.00, as the money spent at that time on capital borrowings for road purposes.

MR. COMMISSIONER LIPSETT: And the system has been to make the gasoline tax since 1925 pay for the previous expenditure for the previous 20 years as well as......

(Go to Page 16,819)

MR. BROWNLEE: That is the justification which is made.

MAJOR LIPSETT: It may be right or wrong but----

MR. BROWNLEE: I do not mind saying that I think there is a tendency throughout Canada at the present time to use the gasoline tax for other purposes besides highway construction. If you go down to Nova Scotia for example , you have a tax which is put on at 10 cents a gallon. Now Nova Scotia is a small Province, however important we may consider it in the scheme of Canadian affairs, it is still small and the mileage of roads is rather small but there is a comparatively big tourists' traffic in Nova Scotia compared with its population and in relation to other Provinces and personally I do not think there is any doubt at all but that the tax of 10 cents a gallon has been put on in Nova Scotia and in the Maritimes as a means of taxing the tourists to help them in their general work in the Province in maintaining institutions so that I think probably we have to admit that, while this tax started in Canada and in the United States very definitely for the purposes of helping to build highways, I think probably there is a tendency now in some places to use the money for other purposes and noteably in those Provinces where tourists' traffic is rather high and where it is a convenient method of extracting some money from tourists to help out the Provincial finances.

THE CHAIRMAN: Mr. Brownlee, speaking as one who represents the farmer qua motorist, when he is

going to town for this or for that which he needs or he is going for a drive, what do you think of this 7 cents tax.

MR. BROWNLEE: Do you mean, my Lord, do you think it is too high.

THE CHAIRMAN: Yes.

MR. BROWNLEE: Or whether it is high enough.

THE CHAIRMAN: If there should be any and if so how high should it be.

MR. BROWNLEE: Now my Lord, when you get into that question of whether or not a tax, whether there should be a tax on gasoline or no tax----

THE CHAIRMAN: Should the tax that the consumer pays keep up the roads and if so is 7 cents adequate or too little or too much for that purpose, have you any views about that.

MR. BROWNLEE: Well my Lord, when we get into that question we get into such a wide and difficult field, we have to start for example in Canada, we have to start with the division between the Dominion and the Provinces in which, under our constitution, the Dominion is given all fields of taxation and the Province is limited to direct taxes and then from that we have to go to the development of the last ten years particularly in which there has been such a tremendous demand for social services and in which the relief burden has become so great in all the Provinces and I think we have to frankly admit that the Provinces, particularly those of Western Canada, have got to the point where it has become more and more impos-

sible or difficult for them to raise the money which is demanded to meet the cost of Government and they have to get the money where they can. I am not going to try to stand here and justify every different method of taxation in Alberta or Saskatchewan or Manitoba or any other Province where we have, the Provinces have, a certain legitimate cost of Government today which is here by reason of the demand of the people and we have to meet it and I think it is a question of getting the money where they can. The gasoline tax, my Lord, is to some extent a luxury tax. I think it has some aspects of a luxury tax. The man who can drive a motor car and the extent to which he drives it depends upon his financial means. I think an argument could be raised that the motor tax can be justified from that standpoint.

As to whether 7 cents or 6 cents or 5 cents is the proper tax, again is a matter of debate. I have my own personal views on that which may not be of any value to any person. I can say that so far as the farmer is concerned he does not like to pay 7 cents any more than anybody else does. He would be much better satisfied with 5 and much more satisfied if it was 4.

THE CHAIRMAN: Obviously so but we have to consider of course as to whether or not, let me put it this way, quite recently it was put before us that this tax is an unreasonable one, an unreasonable burden, people buying gasoline, they pay 7 cents extra and it is unreasonable and an improper thing; that, recognizing that

Government must have money to carry on the functions of Government and provide the services which their people reasonably require, that they should get it by a more general system of taxation, at least a system of taxation which is more general in its application, that is either a general sales tax or an income tax or anything else you can think of, that touches the people as a whole rather than as a class. Have you any views about that.

MR. BROWNLEE: Well any views which I might have would be entirely personal views based on such little experience as I may have had. I do not think that we can say today that there is any particular science underlying our methods of taxation in any of our Provinces. I think that with the field of taxation which is before them, where they can only rely on direct taxation, I think they are driven to the position of getting the money where they can.

THE CHAIRMAN: Well there are two concrete suggestions, one, a general sales tax, and two, increasing the income tax, that have been put to us.

MR. BROWNLEE: Well I would eliminate the last one. The income tax has to be governed by, in the first place, by the relative degree of taxation between one Province and another, otherwise you drive income out of the Province and secondly by the reasonable ability to pay it. Now I submit that if you take our corporations today and take the Dominion taxes and then add to that the Provincial tax in this Province and the extra tax now on account of the war, certainly our corporations are

being taxed under the Income Tax Act pretty well,- not as high as in England but still very high,-and it is very doubtful if there could be any justification for increasing, for increasing it.

So far as the private individual is concerned there is the Dominion tax and we have the Provincial tax. Our Provincial tax is in relation to that of the other Provinces. Any increase in that would drive a considerable amount of capital out of the Province. I do not think that we can look to the income tax for much more money than we are getting at the present time.

Now so far as a sales tax is concerned we could get money out of a sales tax unquestionably. The Dominion gets a great deal of revenue from the sales tax because they can disguise it as an indirect tax. Nobody knows what he pays. Unfortunately for the Province however, when you put a sales tax on every time a person makes a purchase it hits him right in the eye that he is paying so much to the Government with the result that it is an unpopular tax and that is about all I can say so far as popularity is concerned.

THE CHAIRMAN: People would resent it.

MR. BROWNLEE: When you go from the gasoline tax to a sales tax every man who buys a commodity, he no doubt will grumble about the amount of his gasoline tax, but if you put a general sales tax on he grumbles every time he buys anything at all. It is a much more unpopular tax and unfortunately in this country for some time to come I am afraid that those who are actually in charge of the

administration of the affairs will have to pay some attention to how people feel.

THE CHAIRMAN: Well I suppose only as they feel so will they vote.

MR. BROWNLEE: I think that is a practical reality.

THE CHAIRMAN: Yes.

MR. BROWNLEE: And I think that in all Governments, Dominion or Provincial , there has been a tendency to pay some attention to the question of how people vote.

MAJOR LIPSETT: I do not suppose, Mr. Brownlee, you are advocating a form of Government by public opinion.

MR. BROWNLEE: Beg pardon.

MAJOR LIPSETT: I do not suppose you would advocate a form of government under which public opinion would govern.

MR. BROWNLEE: No I would not.

THE CHAIRMAN: Not in Calgary. Well do I gather that, speaking for the farmers that you represent, that you think that the 7 cents is all right.

MR. BROWNLEE: No, no, I didn't say that my Lord.

THE CHAIRMAN: Do you think, is it too high or is it too low.

MR. BROWNLEE: The organization that I speak for, as I state, if I had read my memorandum, the organization for which I speak does not care to express any opinion upon that because after all it is a matter of

government necessity. The farmer undoubtedly feels that 7 cents is too high, just the same as any other individual and I am not here to justify the 7 cents. I am not here to justify the 1 cent which is held back on the rebate. I am here to speak very positively, as positively as I can, that the farmer does not want any change in the present system under which he does get a rebate for industrial purposes and he does not want the tax more than the 1 cent which is now retained. He does not want any higher tax put upon that part of his gasoline consumption which goes into the production of his commodity. He is prepared to pay his taxes for the gasoline that he uses on the highway. He would prefer to see a 5 cent tax or a 4 cents tax, the same as anybody else would and I am not here to justify the 7 cents.

Yes, Mr. Priestley has called my attention to the fact that probably the average farmer thinks that there may be some discrimination at the present time because he is forced to live in the country and may be forced to use his truck and car more, but I am not here to justify the 7 cents. If I was asked to express a personal opinion I would say that it rather does shock sometimes my own personal sense of economics, that a tax on a commodity gets as high as 25% of its selling value and I would like to see an experiment made some time by which the tax was started to be reduced and see whether or not the additional gas which would be used and the lesser amount of evasion which would follow, in my opinion might not bring about as much results on a 6 cent tax as we have on the 7. I do express the personal opinion and it is only

a personal opinion and it may not be worth anything at all but I do express the personal opinion that every time that tax has been stepped up we have not had the return in dollars and cents proportionate to the increase, that the higher you put the tax the less gas is used, and the more the evasion, and I would like to see an experiment probably say going back to the 6 cent tax to see whether or not it works out, but on the other hand the experience over other districts, other Provinces, is that of course instead of cutting it down they are going higher; Ontario increased theirs to 8 cents last year and the Maritime Provinces have put theirs up as high as 10 cents.

MR. FRAWLEY: And Quebec has 8.

MR. BROWNLEE: Quebec has 8, so from a comparative standpoint we have to admit that in Alberta we are in no worse a condition that any other place in Canada.

MAJOR LIPSETT: I do not think there is any place less than 7 cents.

MR. BROWNLEE: No, and I think that most of the States in the Union, it is 6 cents.

MR. PLOTKINS: It is down as far as 2 cents.

MR. BROWNLEE: It is down to 2 cents some places, Mr. Plotkins, is it.

MR. PLOTKINS: Yes.

MR. BROWNLEE: Now my Lord, I do not want to weary the Commission----

THE CHAIRMAN: Not at all, we are very interested in what you are saying.

MR. BROWNLEE: If there is anything else on

the tax situation I would be glad to answer it.

THE CHAIRMAN: Your organization is to be assumed, as you have said, is to be assumed to be in favor of paying taxes which are properly payable. Have you anything more to suggest, other than a colored gas which is being tried out to cope with the tax evasion; you see if you once got away from tax evasion and you accepted the theory that these taxes are for roads, it would seem logical that you should get away with another cent, and so it ought to be of importance to your organization to know how to cope with tax evasion, that is on the theory that we should keep taxes on this commodity as we are doing.

MR. BROWNLEE: Well so far as I can see, and I speak now somewhat from the experience of having sat down day after day for a number of years with Mr. Trowbridge and his assistants in puzzling over the question----

THE CHAIRMAN: What is the penalty now.

MR. BROWNLEE: I do not know what the penalty is. I think the penalty is high enough.

MR. FRAWLEY: I was wondering, I was just looking at the application, the applicant when he applies for his coupon is apparently not under oath; it says "I propose" to do this and I propose to do that, so that would not be a very practical sort of way.

MR. BROWNLEE: I was just going to say that I think there are only two ways, one by the use of some color such as the colored gas and the other is by a much more, a much stricter form of application than we are using at the present time and which would require much more in-

formation than is contained in that and a check-up in the department, a more careful check-up of these, of the information on these application forms with the other information which is available to the department through the municipal, through the different municipal councils as to the exact amount of land which is under cultivation and under summer fallow and the like.

THE CHAIRMAN: And I suppose a very concrete prosecution of offenders as a detriment to others.

MR. BROWNLEE: Yes. I do not know of any other way. As I say I think myself, I think from the standpoint of tax evasion, I think the original practice of only paying a rebate upon satisfactory proof of its use was better than the present coupon system.

THE CHAIRMAN: It did not lend itself to evasion and this does.

MR. BROWNLEE: No, and I do not think that there was the same ground for complaint but unfortunately there was the additional complaint, the other complaint which became quite pronounced, with the advent of hard times when every dollar in the farmer's pocket meant a great deal and the large purchasers of gasoline paid out quite a large sum of money and had to wait perhaps six months or longer because, mind you, the work of checking up on these applications for refund, particularly after harvest and seeding in the Spring was a big job and it took time. You had 30 or 40 or 50 thousand applications for refund coming in in a bunch right after the harvest season and it threw a very heavy weight on the Administration Department so there was a complaint there that

they were out the money and so we have a new system introduced in Saskatchewan and quite generally in the United States, because I think in the United States you find for the most part they do give a refund at the time of purchase; I do not know of any other way, I think if the information could be supplemented by having the man not only state what he expects to use but also state in his application form what he did use in the past year and then I think that these forms could be checked up with the information which is available through the Municipal Affairs Department and that in that way there could be a much greater check without a color system and then I think that the experiment which is being tried in two places should be carefully examined from the standpoint of the actual return in dollars and cents as to whether it has been in reality a check on evasion. At the present moment I know in Saskatchewan they think it is a very decided check and they are quite enthusiastic about it.

MR. FRAWLEY: Before Mr. Brownlee leaves that, I gave you a wrong figure some time ago, the 1 cent tax brought in $30,156.35 from non-farmers and $393,220.25 from farmers, making the total altogether collected at the rate of 1 cent, a net of $423,376.60. That appears as part of Exhibit "683", Mr. Appleton's statement.

MR. BROWNLEE: What was that.

MR. FRAWLEY: $423,000 was collected mostly at the 1 cent rate.

MAJOR LIPSETT: And that is where?

MR. FRAWLEY: Part of Exhibit "683", the

Provincial Legislation, Mr. Appleton's statement.

MR. BROWNLEE: Well certainly the farmers of the Province have complained and they have for some years been asking to have that 1 cent eliminated but the Government has retained it.

THE CHAIRMAN: Of course as I understand the position from what evidence we have heard to-date, it would appear that your people are getting increasingly interested in higher grades of gasoline.

MR. BROWNLEE: Unquestionably.

THE CHAIRMAN: And therefore, increasingly interested in this 7 cent tax so I am particularly anxious to have your views about it.

MR. BROWNLEE: They are increasingly interested in the 7 cent tax, you mean by that because they are using higher grades in their cars on the highways.

THE CHAIRMAN: Yes.

MR. BROWNLEE: Yes, Ethyl is being used much more than it was for some time.

I cannot say anything more in conclusion, in concluding anything I had to say on the tax question than to repeat again, we as an organization do not seek to justify the 7 cent tax. We would be glad to have it reduced. On the other hand we realize that the Government have problems and that we have to pay our share of taxation. We do not make any definite recommendation on the question of whether the tax should be 5 cents or 6 cents or 7 cents; secondly, we would be glad to see the 1 cent tax, the 1 cent which is retained, we would be glad to see it removed but we are not insisting upon that. We

are anxious to maintain the present arrangement by which there is a rebate either wholly or to the extent of everything but 1 cent on all of that part of the product which is used by the farmer on his machinery on his farm.

Now we are prepared to join and support anything in the nature of a check on evvasion or anything of that kind which may be found to be necessary to properly maintain that present system.

I would like to point out that on the colored gas Mr. Priestley figured out that if it was introduced, in an organization like ours, it would probably throw an additional burden of $10,000 in costs at least so that that question is rather an important item.

Now I think I have dealt with the tax situation as well as I can and I want to go on then in conclusion and I will only take a few minutes to finish, in conclusion may I say,-I may say, my Lord, that we have not dealt with some of the practices that have been discussed, such as the 100% Dealer and if there are any questions, if our views are desired on any of those when I am through, Mr. Priestley or myself will try to answer.

In conclusion may I say that the organization which I represent does not share the views of a number of the witnesses who have appeared before you with respect to Government regulation and control of the petroleum industry in any or all of its branches. Believing as we do that through the extension of co-operative activities the consumers of petroleum products may do much to improve methods of distribution and lower the costs of

petroleum products to themselves we do not go so far as to recommend that the Government, whether through its proper Department or through the establishment of a Government Board should interfere too minutely into the actual business of manufacturing, refining or distributing petroleum products. We do feel however, that within certain limits Government supervision is not only proper but necessary. For example we think it is beyond question that Government intervention by way of conserving the gas resources of Turner Valley was very necessary and very proper.

I understand that there has been certain protests made about some of the orders of the Conservation Board recently and I have nothing to say about them because I do not understand the problem, but we do think that the work of that Board was necessary, we believe that the life of the field was prolonged and we believe that a great deal of wastage was avoided and we also believe that private initiative was entirely unable at that time to cope or deal with the problem.

If I wish to supplement that statement in a personal way, I have a very vivid recollection of the early days of the discussions of conservation in the Turner Valley in this Province and the very long and careful examination before a committee of the House when Dr. Wallace and Mr. Carpenter and representatives of the Dominion Government were inquiring into the field and the satisfaction which was expressed by all the leading companies at that time at the final con-

clusions which were reached by the committee and so just in a private way, as well as speaking for the organization, I think I can say that private initiative appeared to be unable to deal with the problem and that Government supervision is necessary.

We also feel that Government supervision through a properly established board of pipe lines is as necessary in the petroleum industry as with respect to any other similar utility. In the first submission made to this Commission on behalf of the U.F.A. Central Co-operative Association, Limited, Mr. Priestley voiced his approval of the establishment of standards through the Government or a Government agency. We realize there is much truth in the evidence given by some witnesses to the effect that standards can best be established by the competition of the major concerns engaged in the manufacture and distribution of gasoline and other petroleum products and we are quite ready to admit that any of the larger companies engaged in the petroleum industry in this Province have established a degree of reliability with respect to the quality of their products as to command the complete confidence of purchasers in the Province. We feel, however, that further protection can be given the consuming public against the operation of the smaller concerns of the here today and gone tomorrow type, who are not so concerned about the quality of the product temporarily sold by them, and so we think that there is room therefore, we would be prepared to endorse any policy on the intro-

duction of standards.

As stated, in an earlier part of this submission we have had no quarrel with the Department of Government that has attempted to regulate and control the establishment of wholesale and retail distributing agencies through a licensing system. We are inclined to the view that this work should be continued as tending to avoid to a degree at least some of the waste effort which might otherwise accompany unrestricted competition in the field of distribution. I have already dealt before noon with some of the workings of the Public Utilities Board under the Securities Act.

We further feel that the constant study of the various problems incidental to the production and the refining and manufacturing of gasoline and petroleum products would have a wholesome effect in stabilizing the price structure and in avoiding undue variations in price. An examination such as has been conducted by this Commission has, we think, been of very great value to the industry as a whole and if, without too elaborate an organization and too great expense, some method can be evolved of continuing from year to year the study which has been started by this Commission, we believe it would be well worth while. As to how far all such work might be centralized in one board it is difficult to say but if your Commission has any thought of recommending some agency to carry on such continued work, it would have the support of the organization which I represent.

I just wish to elaborate on that slightly. I think that probably a very important result which will follow the working of a commission of this kind will be the gathering together and the making available to the public of many factors about an industry which so far has been shrouded under a certain amount of mystery so far as the average person is concerned. I say that without any criticism at all of those who have been engaged in the industry. Even if the Commission did not succeed, and I say this, I say even if it has not been able to recommend any policies which may actually reduce the cost of gasoline in the Province, I think the publication of the information which will be available to you as a result of your study, will do a great deal to instil more confidence in the minds of the public generally with respect to those agencies which have been engaged in the business and that in itself is a good thing. I think if the information can be made available to the public of how the price, the present price structure is built up, why it is that gasoline that is purchased down in the United States at 3 cents a gallon, the American gallon, cannot be brought into Alberta at lower than the price at which gasoline is being sold here, would be of great interest to the average producer or consumer.

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I think also the amount that the Dominion Government is taking by way of taxation from this Province, as well as the amount the Provincial Government is taking, is a matter of intense interest and we do believe as an organization that the more you can have light thrown upon any business or any industry the more likely you are going to see the result that first of all there is content where otherwise there might be discontent; there is confidence where otherwise there might be distrust, and there is a safeguard against undue variations in price and against practices which might otherwise prevail. And when I say that I am not suggesting that there have been any practices on the part of the major companies here that would be subject to too much criticism. And so, so far as we are concerned, we do think that if some method can be evolved by which the work that has been started by this Commission can be carried on, it would be a good thing for the Province and would be very acceptable to the consumers of gasoline in the Province. Now, how that can be done, of course, is a different question and I do not feel or we do not feel that we have had a sufficient opportunity to study the question to make any very concrete suggestion. A suggestion I heard yesterday was there might be a Chair established in the University. We discussed that last night.

THE CHAIRMAN: I think that was for educational purposes.

MR. BROWNLEE: Yes. We discussed that last night as an organization and certainly we would have no criticism of the suggestion. And if, by any chance, as we hope, the development in production that has been so far

I think also the remark that the [illegible] Government in

taking [illegible] of taxation from this [illegible] as well as

the [illegible] provincial [illegible]

[illegible]

[illegible]

[illegible]

[illegible] first of all [illegible] is a fact [illegible]

[illegible] there is [illegible]

[illegible] the right to [illegible] and there is

[illegible] much [illegible]

people [illegible]

[illegible] that there [illegible]

[illegible] that would [illegible]

[illegible] problems [illegible]

[illegible]

[illegible] that [illegible]

[illegible] good [illegible]

very [illegible]

for, [illegible]

and I [illegible]

sufficient [illegible]

[illegible] occur [illegible]

[illegible] Chair [illegible]

[illegible] right.

Mr. [illegible]: [illegible] that was [illegible]

[illegible]

Mr. [illegible]: [illegible]

with [illegible] contribution [illegible]

[illegible]

[illegible]

established in Turner Valley should be extended, and that we rather confidently hope that Alberta will be a Province in which there will be a very large oil industry from a production standpoint as well as otherwise, then certainly I do think that the establishment of a Chair in the University for educational purposes would be very necessary and very advisable. But for the immediate present I am not so sure but what there would be only a certain amount of duplication of effort and I think probably it would be the viewpoint of my clients that they would prefer for the time being to see any work of that kind more of a departmental nature or under a Board of some kind which would cover any functions that at the present time may be distributed over a number of bodies. Now, of course, that brings up one very important question and that is whether the Board should be, if a Board is to be established, whether it should be Provincial or a Dominion Board. If it does not appear to be out of place for me to make this remark I would like to voice this viewpoint which is held by my friends as well as myself. Can a Provincial Board be as effective as it should be in examining and regulating an industry of this kind, which extends all over Canada? A view which I have personally held for some time is that in our Canadian public affairs there has been too much of a tendency for those who operate under Section 91 of the Constitution to segregate themselves from the Provincial administrative bodies and try to confine their activities within the strict bounds and authorities which are given them under 91; and in the same way I think there has been too much of a tendency on the part of our Provincial authorities to look only to the exact duties that are imposed

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upon them under 92. I am inclined to think though we would have much better results if you could in some way get both the Dominion and the Province behind the idea of some body that in this Province is a possible large producing area, that would care for the regulation and supervision of the industry. Now, a step was made in that direction in the early days of the conservation efforts of this Province, then the Dominion readily agreed that one of their prominent civil servants, I think it was Dr.-----

MR. FRAWLEY: Dr. Camsell and Dr. McCleish.

MR. BROWNLEE: Dr. Camsell and Dr. McCleish were made available by the Dominion to work with the Province and work with Dr. Wallace and Mr. Carpenter. Now, unquestionably there are matters entering into the oil business which are beyond the jurisdiction of the Province. The Province cannot deal with importations. It cannot deal with customs. It cannot deal with dumping. It is limited in its supervisory work to that part of the industry that is within the Province. With difficulty it can examine the accounts of any company that is operating outside the Province. There is a very distinct field in which the Dominion would be the body with jurisdiction and there is a very distinct field in which the Province has. And so for what it is worth in endorsing the idea as an organization that the work of this commission should be followed up by some body, some organization, we are inclined to a preference that the first attempt should be made in trying to have a body of that kind established under the joint direction of the two Governments, with the idea of bringing both Governments into co-operative and mutual interest in the problems of

gas production and conservation. If that cannot be done then, of course, the Province must work with such authority as it can within such limitations as it may have. And we make that suggestion for what it is worth that we do believe that the interests of what we think is going to be a very important industry in this Province would best be supervised by some body that would not be Provincial only but would be an attempt to get both Dominion and Provincial departments, proper departments interested and behind such a body.

Now, My Lord, I have completed anything which we had thought we should undertake to say to the Commission. I hope we have not unduly wearied you. If there is anything further upon which, as a result of your studies, you feel we could offer any suggestion which might be worthy of consideration, we will be glad to help you in any way we can.

THE CHAIRMAN: Mr. Brownlee, we are indebted to you for the assistance that you have endeavoured to give us and while we have asked questions that may seem to point this way or that, one thing you can be quite sure of is that we have come to no conclusions as yet. I hope you will be equally sure and confident that we shall not fail to remember the important part that your clients play in the life of this Province. There is, we hope, no possibility of our being unfair to them while at the same time being quite fair to everybody else with whose interests we are concerned.

MR. FRAWLEY: Now, Mr. Davies.

THE CHAIRMAN: Mr. Brownlee, just before you leave. Have you thought out a practical application of the very interesting suggestion that you have just made about

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joint direction; how it can be done? Have you thought out at all how that can be made workable, just assuming both Governments were willing?

MR. BROWNLEE: Well, for what it is worth, My Lord,

THE CHAIRMAN: This being the place of the oil field, I take it you would expect it would function here.

MR. BROWNLEE: I would start out this way in trying to answer that question, that nature apparently has placed a very important natural product within the bounds of this Province, so far as we know; and that it is of the greatest interest to Canada as a whole as well as this Province that the natural resource should be developed properly. And so I would say that the Dominion might well be invited to join in the formation of some kind of, I do not care whether you call it a Conservation Board, a Gas Conservation Board, any name you wish to give it.

THE CHAIRMAN: Oh, quite.

MR. BROWNLEE: And that they should make available to a joint Board in this Province, they should make available one of the very excellent men that they have, such as Dr. Camsell or the men who are under him in the Mines Department. They have men there who have had a world of experience and are very, very able and capable men. I would suggest that they should make available, just to sit on a Board in this Province, one or two men, and that the Province would appoint the same number and that then there should be a Chairman who would be a full-time man; these other men being called in as the occasion demands for consultation with them.

THE CHAIRMAN: You would have representation

from the industry, would you not, Mr. Brownlee?

MR. BROWNLEE: Well, I am not so awfully concerned about that in my own thinking. Some people I know would pay a great deal of attention to that. The difficulty that I have run into in any experience I have had with Boards is that where you attempt to have representation, say by an industry on the one hand and producers on the other - for example, take our Grain Inquiries, excepting the last one of Mr. Justice Turgeon, when he was made the sole investigator - any times before you have had a man from the Grain Trade and one from the Producers, and that usually results in a one-man Board. Because the interests of the other two men are opposed to one another, and it finally resolves itself into a one-man Board. And so I am now, as far as our own ideas in thinking this over are concerned, I do not know that we would press so much representation by the industry or representation by the farmers or other producers. Certainly if representation is going to be given to industry then representation should also be given to the consumers. I would be more inclined to think that it might be a Board established with men of the type I have suggested; one or two from the Dominion Government and one or two from the Province, with a capable man as Chairman, who would be a full-time man, and with his proper staff of civil servants under him, dealing with questions of licensing and any of the various matters that might come up. But above all, conducting from year to year - and this is the important thing to us - conducting research from year to year so that at all times there is available a fount of information as to what is going on in the industry.

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THE CHAIRMAN: Would you suggest an annual report?

MR. BROWNLEE: Yes, I would suggest an annual report. My Lord, supposing that we had had that in this Province - and to some extent I may have been to blame myself as one who had a chance to do it and did not - supposing we might have had ten years ago a Board of that kind established in conducting research work from year to year, what a tremendous advantage it would have been to you at the beginning of your work here.

THE CHAIRMAN: Probably there would have been no need for us here.

MR. BROWNLEE: I do think there would have been a need. The Board of Grain Commissioners is a very capable body and they have a magnificent staff. But that has not prevented commissions being appointed. But I do know this, that every time there has been a commission established - when Mr. Justice Turgeon started his work of Inquiry the last time, that the time he would have to otherwise have put in was shortened probably 50% and he was tremendously assisted because it did not matter what phase of that business was up for inquiry there was a man available there who had been making a study of that for years and could give him a vast amount of information. Now there to me, or to my clients, when I say myself I do not want to appear to be speaking personally - there to me is the great value of an organization of that kind. We do not suggest and I do not think it is necessary that a body of that kind should interfere too much in the ordinary commercial undertakings of those who are engaged in the business. There are certain places where

regulation, where there must be regulation to avoid wastage that always accompanies unbridled competition. But particularly I was thinking that the more research work that there is in connection with the great field of oil production and distribution in Canada and the more consistently that is carried on the surer we are going to be that the work will be carried on without undue exploitation of our resources and at the same time carried on in a manner that will command the confidence of the people. And that is a most important thing. That is what we have in mind when we suggest that there should be this joint working arrangement. And I do not think it is impossible. I have an idea that the Dominion- - I know they did a few years ago - and I have an idea that they would readily agree to put one or two of their very best men available to a Board of that kind.

THE CHAIRMAN: Well, your views have been very interesting, Mr. Brownlee. Have you anything to add, Mr. Priestley?

MR. PRIESTLEY: No, My Lord.

....

MAYNARD J. DAVIES,

Mr. Chairman and Mr. Commissioners. In appearing before your good selves there are two points that come to my mind, the first being, should I try in the very small manner that I can, to give a factual outline of the various things that I have in mind. But I thought that other authorities and many experts much more capable than myself have already done that. So I thought that possibly being the first time that I have appeared before

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you that if I just might state a few things that I have got locked away in my chest that you might bear with me.

As regards my association in the industry as President and Managing Director of Davies Petroleums Limited, I would say in the first place that it is only a few short years ago I was what most people call a promoter. But being fortunate to strike some oil in this wonderful Province of ours I feel a keener sense of duty and pride myself as being elevated somewhat towards the standard of an oil operator.

I am not a geologist. I am not an expert and I do not think I have particularly much geological instinct.

THE CHAIRMAN: The company you represent is a producing company, Mr. Davies?

MR. DAVIES: A producing company.

THE CHAIRMAN: Just for the purposes of the record?

MR. DAVIES: Yes. I have for a long time held rather a resentment towards what I feel is a monopoly in the industry as it exists in Turner Valley, in Alberta and in the Dominion. But in saying that I believe there is a monopoly I do not want to be selfish, because if I were in the same position as the people that hold that monopoly my duty to my shareholders and my company would probably prompt me to do exactly the very self-same things that they do. So, therefore, I admit that the Standard Oil Company of New Jersey and its subsidiaries are exercising the right business principles in administering the Alberta oil industry as suits themselves, of course. But the very fact that they are the

controlling influence is the very reason that legislative bodies function to preserve the privileges and rights of the majority who are ruled by, as I believe, by the minority.

The first one of our great points is the pipe line rate and handling charge, which has been adequately considered and so recommended.

I find it has also become a contentious question between the competitive refineries. But I don't see any reason why competition of refineries should possibly endanger the full benefits of the reduction in what I personally and many others thought exhorbitant rates for many years, should be passed on to the benefit of any particular refiner. It is my opinion that the benefits which I believe amount to about 8 cents a barrel, should be passed on to the producers.

THE CHAIRMAN: Leaving aside the refiners. Have you considered the position of the consumer? You will come to that, I suppose?

MR. DAVIES: Yes, I think I will, Sir. As a matter of fact, I may just as well deal with that now. The oil industry in the Province of Alberta, in my opinion, is in a very poor condition. By oil industry I refer to the position of the independent operators. What we want to do, I think every operator in the field wishes to step out to spend some money to develop new structures, so that Turner Valley when it does come to its end, which it must of necessity at some time, there will be a continuation of the supply of oil, or before that there will be supplies of oil that might possibly help us to create a greater market and

create a greater industry. But we have not got the money to do it. Certain companies, like the Anglo-Canadian, have through the intelligence and the ability of the people in charge of them, been successful in raising funds and drilling wells all over the different structures in the Province. The Brown Oil Company or the Brown Consolidated very recently undertook a test of the Jumping Pound. Now, I believe most of these companies find that they have not the money to prosecute any search for oil. So while some may argue that the benefits of this might go to the consumer, I say that unless something is done to preserve the conditions of the producer then in the future development will be restricted to proven areas or a system of financing which leaves the company holding practically nothing when it completes a producing oil well. There was a time when we could finance by stock. But the application, in my opinion, of methods used in Turner Valley together with the restrictions that companies have, both from marketing to the public and stock exchange regulations, make it practically impossible to-day for a speculative company to raise funds for drilling or exploiting the oil resources of the country. And so we find our system of financing to-day one that I have had to resort to, against my will, that of selling preferred royalty units, which leave a small interest, but a deferred interest to what we term the producer promoter or the company that organizes the drilling of this particular well. I find that in the course of the last several months that certain individuals have, a company supported by a certain refinery organization, entered into the field of what I call promotion. That is drilling oil wells by the sale of

units. In this particular case and in several cases preferred royalty units, that leave them a deferred interest in the well. Now, it is quite possible that this deferred interest may assist the refinery at a later date. But it also affects the ordinary operator who is trying to carry on business of drilling oil wells to produce oil at a reasonable profit and to supply the consumer. Now, I know what I pay for gasoline. I know what the consumer pays. But I do not know the refinery business. I do not know the technicalities. I am not any expert in regard to what the consumer should pay or what should be the economic price per gallon of gasoline. But I do know that under the system that we have operated under the last three years, under the system of enforced pro-ration or conservation, that there will be few, if any, independent oil operators in another three years. And if the independent operators are forced out of the Turner Valley picture, if they are forced out of developing the resources of this Province, then I will say that until the time comes that the major oil companies require, and not until they require these oil resources, then they will not be developed. I believe that practically every part and parcel of what are termed the "wild-cat" drilling operations have been carried on by the independents. I will admit that there have been odd tests by the major oil companies. But if you wish to see the results I think it has been definitely proven that the crude oil in Turner Valley was discovered by an independent. That the ensuing development was prosecuted by independents. When the Turner Valley Royalties well first came in the

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major oil companies were not interested in the south end acreage and the only time they showed any interest was when they saw all sorts of independent companies starting drilling operations and acquiring land. From that point onwards the weight of money and the weight of control came into being in Turner Valley and pretty well shut all of us off. Does that answer my feelings in regard to the consumers. Now much has been said about the posted field price. I am quite prepared to admit that the price of crude oil to-day is fair, economical, and we can operate on it, but I am also emphatically in favour of the 8 cents per barrel as recommended being given to the producer by way of an increased field price of 8 cents per barrel. I believe it rightfully belongs to the producer and I cannot possibly see any justification for that going elsewhere. Which also brings me to another point. I believe, I speak for myself and for my company or any companies I am interested in, I believe we will all very willingly sit down at a table, put our feet under the table and talk this situation over; take a reduction in oil if we can have an increase in market. I have no doubt whatsoever who has the final say as to whether our market can be broadened or not. We have this war situation. I estimate millions of dollars a year in adverse trade balances is being built up in Canada for the purchase of American products, that could be substituted by Canadian oil products. I think something should be done about it. Not purely from a patriotic view but for the future of the country and for the future of the Dominion. If we cannot develop our resources, if our resources must be shut in, if we cannot go out in the field of enterprise

[illegible] land. [illegible]

[illegible] the weight [illegible]

[illegible] that the [illegible]

[illegible] concerned, and [illegible]

[illegible] favour [illegible]

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[illegible] the country and [illegible] the Dominion [illegible] measures must [illegible]

M. J. Davies.

and build up businesses as these people themselves did in the past, then I can see no future for the country. I cannot see any future in population. I cannot see any future in business. And I suppose ultimately we will just be forced to the position as in other countries, forced to a system of extreme socialism and what goes on from there I do not know.

(Page 16,850 follows.)

[illegible] provided [illegible]

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So long as conditions for financing private ventures remain in a comatose state then major interests can carry on with their plan of control, but by increased markets, public interest and funds, will stand behind independents in their efforts to develop this immense Turner Valley and I believe myself to be most reasonable when I say that every economic barrel of oil that can be produced should be consumed in this country. The present world situation glaringly accuses Canada of unbusinesslike administration inasmuch as millions of dollars on the wrong side of our trade balance could be placed on the other side of the ledger by the full use of Canadain oil in Canadian markets. I grant that there are many difficulties, but in my opinion and I believe in the opinion of most independents, it would take only two bodies to agree, - I may be wrong, but I believe that would be the Imperial Oil Company and the Railways.

And then I am well aware of the fact some of our independents resort to methods that cause resentment and do more harm than good, but I believe that the exigencies of their circumstances force such action. In England this year I spoke with many operators carrying on business the world over, and on being approached in regard to the Alberta oil situation, their stock reply is, "why ask us to finance development for posterity, gain your own markets for your products." My analysis of such remarks is that though we cannot possibly supply the full Canadian market, nor will we be able to for many years, yet we suffer or should I say, forced to suffer, pro-ration to the benefit of foreign oil being brought into this country by

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[illegible]

[illegible]

major oil companies.

I believe the evidence before this Commission has established that the Standard Oil Company of New Jersey and/or its subsidiaries exercise a majority control in the oil and gasoline situation within the confines of the Dominion of Canada. It can be most clearly seen that their advantage over the independents is definite. Whilst I would be most reluctant to suggest that private initiative be destroyed I am definitely not reluctant in stating that power control by private enterprises must be curbed so that the poeples of this Country receive their fair reward for the millions of dollars that they have contributed with a view to profit, of course, to the development of vast resources locked in the ground by reason of their own markets being shut from them by organizations who seek to exercise a greater control than they even do at the present time.

I believe it has been shown time and time again in the evidence before the Commission that the majority of tests on outside structures have been carried on by independents. There can be no doubt that the crude oil of Turner Valley was discovered by independents,. This forced control that I have referred to, that is in my opinion of course, it creates two situations.

It creates financial difficulties at critical times, compels a reduction in the price of acreage, curtails development; whilst on the other hand throws valuable acreage into the lap of the majors and in their policy intensifies their drilling operations which under a system of pro-ration will ultimately force all

other interested companies in Turner Valley to a point where their lifting costs will be greater than their revenues. Then, as happened on the Gas Cap when crude oil was discovered, wells may be bought for but a small part of the original investment and once again full, and complete control is established and John Public has been forced out.

I am very much in favor of conservation but I am very much afraid that the conservation that we have in effect today is no more or no less than enforced pro-ration and I have no doubt in my mind but that were the curb referred to replaced on major oil companies, so that the economic output of Turner Valley be used in the requirements of these companies for Canadian consumption, then, and then only, will the Conservation Board be able to function in the manner for which it was originally set up.

Now what I mean by that, sir, is this, at the very first meeting with the operators when there was a discussion as to whether there should be some new type of association set up to deal with the pro-ration that had been instituted by the bringing in of the Davies No. 2 well, that is not advertising, it is a fact, and at that time the Conservation veered around to where the Alberta Petroleum Association would be formed with the ultimate view of bringing in the old Gas and Oil Association and that steps would be taken toward establishing a Board within the organization to see if the requirements of the major companies were in order and that pro-ration was being carried out in a proper manner. At that time, the operators

were there, the major oil companies' representatives were there at the time and it was suggested that something else be done in regard to conservation and I remember quite clearly as a young man, sticking my neck out, suggesting that if conservation and pro-ration were going to be dealt with then they should be dealt with by two different and distinct bodies because I could visualize conservation and pro-ration becoming linked up together and I think I could also visualize the very same thing that caused me to resign from the Alberta Petroleums Association and that was that the first thing we would see in our Association formed by independent oil operators would be a representation on the Board by the major oil companies, and today, while I would not say they exercise a majority control on the Alberta Petroleums Association, I would say that they have a very large say in how it functions. I have no quarrel whatsoever with the Conservation Board. I believe that they have fulfilled a very wonderful task.. They have had a lot of problems. I do not know whether their power is too great or whether it is too limited. I do not think I am qualified to say but I do feel that the Board should have representatives of the Oil Industry sitting on it. I have often thought I would like to sit on it myself but on this particular instance I cannot sit on the Board with them; I believe that they have endeavored to fulfill the duties that were set out forthem and I believe they have had a tremendous amount of difficulty but I do not think that the irritations in our Industry will be eliminated until, first, conservation and pro-ration are definitely defined and removed from each other; in fact I think they should be removed entirely from

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one or the other Boards; that there should be two different Boards to function, one for pro-ration and the other for conservation; otherwise there will always be in the back of the operators' minds, whether there be or not, that there is collusion, that the major oil companies are running it or the independents are running it or something silly is going on, so I do think one should be divorced from the other.

MAJOR LIPSETT: Mr. Davies, supposing you had two Boards, and the Conservation Board said that as an engineering problem they should have 40,000 barrels a day and the Pro-ration Board thought that there was only a possible market for 20,000 barrels a day, what would you do?

MR. DAVIES: Then I would say it would be between the two Boards to agree as to what is the amount of oil or what is the present market for that oil.

MAJOR LIPSETT: I am asking you to assume that the Board decided that 20,000 barrels was the possible maximum market at the moment but the development had gone to the stage where the Conservation Board said they could safely produce 40,000 barrels a day.

MR. DAVIES: Yes.

MAJOR LIPSETT: Then what happens after that.

MR. DAVIES: Then you would have to produce 20,000 barrels per day.

MAJOR LIPSETT: Is that not exactly what the Conservation Board is doing?

MR. DAVIES: It may be that is what they are doing, sir, but it nevertheless does not divorce one problem from another problem; by that I mean is oil in Turner Valley

migratory or is it not? Apparently experts themselves do not agree on it. I do not think anybody can say with a great degree of certainty that the gas going off the gas cap is against the crude oil operators or against the future output of crude. It is either migratory or not and we find that experts disagree on that.

MAJOR LIPSETT: Then the Conservation Board, that end of it more or less goes on the basis that it is one common pool with the gas migrating all over the field. Now assuming they came to that conclusion, what would the Pro-ration Board do?

MR. DAVIES: Then it alters the present situation if you come to that conclusion.

MAJOR LIPSETT: I do not know as I follow you. What does it do then?

MR. DAVIES: When it is proven, sir, that Turner Valley is a pool and that the oils there are migratory and the gas migrates, then the problem of conservation and pro-ration are wrapped up in each other but at the present time they are not. I mean Mr. Mayland, for instance, or should I say the Gas & Oil Products and their engineers disagree as to whether oil is migratory or not.

(Go to Page 16,856)

MR. COMMISSIONER LIPSETT: Well that can never be solved definitely at the moment. All you can do, I take it, is to have somebody or some person who gives decisions to the best of their opinion?

MR. DAVIES: Granted, sir.

MR. COMMISSIONER LIPSETT: Then you have the Conservation Board, as I understand it, taking the opinion that it is a common pool?

MR. DAVIES: Granted.

MR. COMMISSIONER LIPSETT: That is all the decision you can possibly get at the present is it not?

MR. DAVIES: Yes, but then you have probably 50% of the operators disagreeing with the Board.

MR. COMMISSIONER LIPSETT: If you get two Boards and one says it is a common pool and the other agrees with possibly 50% of the operators, where do you get?

MR. DAVIES: Knowing oil operations as I do, there probably, there would still be a 50% disagreement.

MR. COMMISSIONER LIPSETT: Supposing you have two Boards and one took one view and the other the other, what results from that, or what would you then suggest?

MR. DAVIES: I think it would eliminate the argument that probably some refineries put up that probably Model Oils has put up, and that the Mercury has put up, or various organizations that are interested in the gas-cap wells. I think if another Board would only obviate the irritations that it probably would do much for us all to get our feet under the table and try to co-operate, even though as we have been for the past several years absolutely at loggerheads when it comes

down to having co-operation. Although I do not infer that the Conservation Board has not given us co-operation. They have. We have been injured at various times when there was any problem or any new order going into effect, and I only advance it as my own personal opinion, I may be entirely wrong, that probably there is a little meat to it that you might consider.

MR. COMMISSIONER LIPSETT: I am only trying to get your views, Mr. Davies, because one sees the difficulty of the problem. I was wondering if you could go a little further than that and suggest what the answer is?

MR. DAVIES: I do not know that I can, Sir, except only that I believe thateach Board should have representatives of the producers on the Board. I believe that is vitally necessary in the future. I would say this too, I believe in California as a matter of fact the oil operators have their own, or did have up to the time I was there, approximately a year ago today, have their own organization that consulted the major companies in a sort of co-opepetion and gauged their output and gauged the various wells on the decision of themselves. There is no government body functioning to see they were carried out but just an association of themselves. I am not advocating that we go quite that far, because the major oil companies might get control of that too. But I am advocating that possibly the operators could be represented on the Conservation Board, if there could be some means that I do not know of, and I admit,of divorcing conservation and pro-ration for the time being from each other, I think it will rule out a source of irritation in the industry.

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MR. COMMISSIONER LIPSETT: Would you not have to get two representatives of the producers, one representative of the producers who say it is a common pool, and the other a representative of the producers who say "Oh no, the gas-cap does not interfere with the rest of the field." And you will just have the same deadlock.

MR. DAVIES: There will be that argument probably, come up.

MR. COMMISSIONER LIPSETT: You would not necessarily be much further on would you?

MR. DAVIES: No, except that it would as I say, eliminate irritation of having a body that in the opinion of most operators or part of the operators, holding diverging views from them. I think that the moral aspect alone of the independent operator, one of course that would be so appointed by the independents themselves, one that they had faith and trust in, appointed to such a board would create a moral effect itself in the industry.

MR. COMMISSIONER LIPSETT: I suppose really what you feel is that the Conservation angle has been given too much consideration and possibly not enough consideration to the equities involved of people who are being hurt.

MR. DAVIES: Exactly, sir. I think I have pretty well covered that part in what I was going to say then. I admit I have said a good deal against the major oil companies, and also I can pay them a compliment. I believe that for the good of the industry the world over that those major oil companies are necessary to curb what I would term the opposite of themselves, and that is the cheap operator that uses every subterfuge whether it be good business ethics or not, to dispose of his oil or

M. J. Davies:

gasoline at any cost at the disruption of the market for his own pecuniary ambitions. That is my opinion of the opposite kind of operator, and he does the industry a great deal more harm than good.

I have had some dealings with the Royalite, Imperial and British American Oil Companies, and have always received every courtesy and assistance, unfortunately not financial assistance, and have of course had the odd duel of words which will happen among the best of friends, and as an operator and head of Davies Petroleums Limited, I close my remakrs with three observations in particular, that I have already referred to.

Firstly, that some means be established to compel the Imperial Oil Company to open its market to use the economic output of Turner Valley in their requirements. As I have stated before I am convinced that the independents will do their fair part in any adjustment that may be necessary.

Secondly, that any increase in the government royalty which could only lead to catastrophe for most companies be nipped in the bud, so to speak, before any move is made in that direction.

I happened to miss in my remarks, Sir, a few words I had to say about the government royalty. I have heard from various sources that the government does contemplate - I say it is only from hearsay - that they contemplate an increase in the landowners' royalty, or should I say the royalty under the government lease. These will undoubtedly create a very serious situation inasmuch as all royalties set up provide for

10% government royalty. Most companies have a net interest in their wells and have their economic rates fixed by that 10% royalty, and as financing is so very bad and has been for years in regard to drilling oil wells, I believe that any increase in that royalty can only leave in its wake a trail of ruined companies.

Thirdly, that the posted field price of crude oil in Turner Valley be increased 8 cents in line with the reductions in the pipe line and handling charges. Thank you, sir.

THE CHAIRMAN: Thank you very much, Mr. Davies. Anything more tonight, Mr. Frawley?

MR. FRAWLEY: No, that completes all the submissions by people other than myself, and I would ask the indulgence of the Commission not to meet tomorrow. I would like very much to have that day to complete what I have to say. I would like the Commission to adjourn until Monday morning.

THE CHAIRMAN: Any objections? All right, we will adjourn until Monday morning at 10.30 o'clock.

(At this stage the Hearing was adjourned until 10.30 A.M. December 18th, 1939).

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The Province of Alberta

IN THE MATTER OF THE PUBLIC INQUIRIES ACT

—and—

IN THE MATTER OF a Commission, dated the 12th day of October, A.D. 1938, to inquire into matters connected with Petroleum and Petroleum Products

Commissioners:

The Honourable MR. JUSTICE McGILLIVRAY
(*Chairman*)

—and—

L. R. LIPSETT, ESQ.

Session:

CALGARY, Alberta DECEMBER 18 th, 1939

VOLUME 151

FINAL ARGUMENT

THE CHAIRMAN: All right, Mr. Frawley.

MR. FRAWLEY: Mr. Chairman and Mr. Commissioner; I feel very humble this morning. The closer I get to this task, the more I feel that it is a very serious problem and a very large one. I was just telling to my friend Mr. Nolan that one might as well start to argue the British North America Act from the first section to the last section. I feel perhaps I could do that job a little more satisfactorily than this one.

However, if I am able to convey to you, Mr. Chairman and Mr. Commissioner, a few of the ideas I have arrived at, perhaps that will be of some assistance to you in the work you have to do.

Now I have followed through roughly the same order as my friends, that is starting at production. I have a series of memoranda, which are only notes and would not be of any very great assistance to the Commission nor indeed, I am afraid, to the reporters and it is from the notes that I shall make the observations which I will make.

In production I have broken the discussion down into three, into four parts;

(1) The cost of production.

(2) The field price and the economic fringe.

(3) Field contracts, and

(4) Conservation.

Now when I begin to think ----

THE CHAIRMAN: Pardon me one moment, would you give me those again, cost of production---

MR. FRAWLEY: Cost of production; field price and the economic fringe; field contracts and conservation.

Now frankly when I begin to think of cost of production I am bound to turn my mind at once to Dr. Frey's evidence before the Commission. After all Dr. Frey came here from a Bureau in the United States that some years ago made a very exhaustive study of the cost of production of crude petroleum in the United States and he told us the success or rather the lack of success which attended the efforts of that work and I am bound to say that I was impressed with the evidence given by Dr. Frey with respect to the cost of production and I think I can do no better than to simply recall to the minds of the Commission the evidence that he gave on the subject of the cost of production. Fortunately for us he left a memorandum with us, which means that really it is not necessary to go to the transcript. That discussion, that memorandum is Exhibit "457" and it is the statement by Dr. Frey of the cost of production.

THE CHAIRMAN: Did you say "457".

MR. FRAWLEY: Exhibit "457".

Mr. Chairman, I will

simply read two or three pieces there from that memorandum which I think crystalizes Dr. Frey's thoughts and which I am bound to say that I cannot disagree with and I can only bring it to the consideration of the Commission.

The first passage is:

"In appearing before this Commission it is "my object to point out that even were it "possible to determine the cost of producing "crude petroleum, and that could be done if "one were willing to accept enough arbi- "trary allocations of various items, never- "theless the field price of petroleum and the "cost arrived at do not necessarily have any "correlation at any given moment and further- "more it may be questioned even in the long "run that the amount of money received for "the production in an oil field equals the "expenditure in that field."

A little further on he says, page 3 of his memorandum:

"It is my opinion that with as little history "and as few wells as exist in the Turner "Valley oil field that a cost of production "study would be too inaccurate to be of any "real value to anyone except for historical "purposes or as the basis for future com- "parisons of changes in operating costs."

And on page 5:

"Right here I should like to digress to " point out that an average is a "statistical fact which carries with it "no implication of the range, so if one "states that the average cost is 85 cents "per barrel there remains the question of "how many producers are above and how many "wells are below, that is: and if one says "that a reasonable field price should be "determined by the cost of the production "then as a matter of logic one faces the "question why select average rather than "the high or the low? Obviously the dif- "ference in costs is related to potential "profits."

And at page 7:

"As the important problem in currently "amortizing the cost of a property is the "estimated quantity it will produce, or "the useful life of the equipment as "measured by the estimated number of pro- "duction years, it naturally follows that "the cost per barrel is affected by any re- "vision of these yield estimates. Because "of many kinds of changes it often happens "that costs fluctuate widely from time to "time. Besides there is almost always con- "siderable difference as between wells and

"leases as to the degree in which the invest-
"ment has been amortized. It is consequently
"important in any cost of production study to
"have a large sample and a long period in
"order to compensate for the variables, other-
"wise a reasonable average will not be ob-
"tained."

And on page 12:

"What I have said up to this point is of
"general application to the problem of de-
"termining the cost of production. In ad-
"dition to these considerations, before a
"reliable estimate of the cost of production
"in Turner Valley can be arrived at some of
"the physical facts that have a very impor-
"tant bearing on the problem and should be
"determined incident to a cost study are:
"1. Extent of the field:
" a. The outline of the producing horizon
" b. The water contact line, if any.
" c. The gas and oil contact line.
" d. Any structural conditions, such as
" faults, that may delimit the field.
" e. Economic conditions that may delimit
" the field.
"2. Volume of oil in cross section.
"3. Volume of oil that can be lifted to the
" surface by gas present in the structure and
" any other physical conditions, if operative."

"4. Effect of release of gas pressure upon
" ultimate recovery.

"5. Volume of oil that will be left in the
" structure when natural flow ceases.

"6. Method of secondary recovery and lifting
" costs, if a secondary method or methods
" prove feasible.

"7. What will happen in the movement of oil to
" the wells when the gas pressure is reduced
" to the point where the gas breaks out of
" solution.

"8. Extent to which the gas cap should be
" closed in - if at all - should merchantable
" gas be recovered from the oil producing
" section of the field. What would be the
" effect upon ultimate recovery of pumping non-
" merchantable gas back into the structure.

"9. What optimum rate of flow would be most sat-
" isfactory from the standpoint of conservation.

"10. Likely drilling program not only in Turner
" Valley but in other possible competing fields.

"11. Is the conservation program of the present
" government likely to become the long range
" policy.

"12. Would restricted production continue if the
" market would absorb more oil than the field
" could produce efficiently.

"   While I know that I "have not exhausted the subject of the cost of "producing petroleum I hope I have not fogged "the issue and that there is no misunderstand- "ing on the conclusion I referred to at the "beginning of this discussion, namely, that "while it is possible to determine a cost for "the production of crude oil in Turner Valley "if enough arbitraries are assumed history "might or might not bear out the truth of such "a cost because many physical facts concern- "ing the field are either not known at all or "are only partially known which adds to the "arbitraries that would have to be assumed "and after everything was said and done the "resulting cost figure would only be a "scientific guess, the value of which would "be of no practical value in the determination "of price, for as I have tried to demonstrate "production costs by whatever method determined "may have little or no effect upon price but "economic conditions especially price may be "the determining factor in the cost of pro- "duction."

Now that is I think a fair summary of what Dr. Frey says and so he gave it to the Commission as his considered opinion that we could not find the cost and that even if we could find the cost he did not think it was of any importance to us in endeavouring to arrive at the field price of

crude oil which after all is perhaps the reason why we are endeavouring to explore the question of costs, what bearing has costs upon field price. He gives it as his opinion (1) because of the small sample, because of the difficulties in the lack of information that he enumerates, that it is not possible to find costs, true costs.

Then he says even if we did it is not anything, he would not recommend to the Commission that they use any costs such as were found in endeavouring to arrive at price.

I must confess that I always saw a great difficulty in making any practical use of what the cost was. In my own amateurish way I simply put it to myself this way, supposing we were able to arrive at Mr. Smith's costs and that was $1.45 a barrel, the price being, having been arrived at by my friend's people at $1.20, it is not to be expected that Mr. Smith is going to get $1.45 for his crude. He would have to take $1.20 and also on the other hand if it could be arrived at, if say the Royalite Oil Company, the Jersey statements were authentic,-and I am not suggesting that they are because I must confess I subscribe to the views of the people who say there are serious infirmities in those statements,-but if we were able to say that the cost of producing crude oil at 87 cents to the Royalite Oil Company, still I say if,-of course we have to explore the savings, yes, if the competitive price was $1.20 I presume the

Royalite Oil Company, like Mr. Smith or Mr. Jones, should be entitled to ask and get $1.20, not the 87 plus a profit. Now I suppose that is pretty trite, that sort of reasoning, that is pretty obviously but I only point that out to indicate the difficulties and not only the difficulties, perhaps the lack of real value, in endeavouring to arrive at costs for the purpose of arriving at price.

THE CHAIRMAN: I can appreciate Dr. Frey's evidence and also what you say with regard to the difficulties of ascertaining costs in Turner Valley but I do not follow that the cost is relatively unimportant when one goes into the broader field of world production because it does not seem to me sensible to say that over the whole world oil cannot be produced except at a loss and continue to be used to refine products. You can take an isolated field and say well if they want to get their oil out at all they must compete with the world markets but to say that the cost of production has no relation to the cost of the refined products, it seems to me an absurdity because no class will stay in business forever at a loss.

MR. FRAWLEY: Well that is true.

THE CHAIRMAN: A particular field may.

MR. FRAWLEY: Yes, it seems an extraordinary thing, quite true, Mr. Chairman, that in the East Texas Field wells are drilled to very shallow depths and at very little cost.

THE CHAIRMAN: Yes.

MR. FRAWLEY: And oil is produced there, let us say of the gravity as ours and we go down 6 or 7 or 8 thousand feet at a cost of 165 or 175 thousand dollars.

THE CHAIRMAN: Yes.

MR. FRAWLEY: And those two fields are on the evidence of our witnesses competing one with the other.

THE CHAIRMAN: Yes.

MR. FRAWLEY: That is a perfectly sound and true statement.

THE CHAIRMAN: Yes, but in the over-all picture I suggest that it is not reasonable to say that cost of production has no relation whatever to price; the cost of production in a particular field may have no relation to price.

MR. FRAWLEY: That may be a better way of putting it. I presume that it must be so, that there are varying costs of production. There must be a cost. We have not been able to find it because of this inability to find an amortization figure but there must be a cost. It is X cents. That is or is not more thanthe price which is obtained by that company, which is paid that company.

THE CHAIRMAN: Yes.

MR. FRAWLEY: So that a particular company is either making money or losing money.

THE CHAIRMAN: Yes.

MR. FRAWLEY: On the crude which they

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

sell. It seems strange that they do not know from day to day whether they are making money or losing money but that is what the evidence amounts to, it seems to me, and we cannot say, we have spent a good round number of hours in trying to find out that very difficult question, trying to solve that difficult question, it is extraordinary but nevertheless I think we are faced with the facts here, we brought, we did it in a variety of ways, we brought the accountants, Mr. Morrison, in whom I for one have every confidence, and he came with the results of his analysis of the accounts of one company and he simply told us "You will have to give me the per acre recovery underlying my client's land and then perhaps I can work out a figure for you", and you recall from the figure he filed, the best he could do was to show a series of values. Well of course that is not sensible. There is not a series of values. There is just one but all Mr. Morrison could do for us was to give us that the price would be on a certain assumption.

MAJOR LIPSETT: Have we not to some extent the answer to Mr. Morrison's query in the finding of the life of the field.

MR. FRAWLEY: Yes, to some extent we have but then you see our difficulty there, I think Mr. Morrison has,-that we have to take that and put it to a well.

THE CHAIRMAN: Yes.

MR. FRAWLEY: Which I do not suppose we did.

THE CHAIRMAN: No.

MR. FRAWLEY: I do not suppose the Commission did last spring when they arrived at the result. Of course that is obvious.

MAJOR LIPSETT: But could not we relate it to the whole field.

MR. FRAWLEY: Well we have it for the whole field. We have it for a certain number of acres which you have said was the area from which this pipeline would draw but I do not know, I do not suppose there was any attempt at all, not the slightest, to say that Royalite No. 28 or whatever you would like to take, to say it has any certain life.

MAJOR LIPSETT: You do not think, Mr. Frawley, it is possible to arrive at something near it by taking the presumed oil under an acre and on the basis that a well might drain 40 acres and the average cost of the well.

MR. FRAWLEY: I dare say a calculation could be made. I would not want to be so forward as to say you could not make a calculation. I think probably if the Commission gave Mr. Cottle enough factors that he could work out an average figure for you but let us suppose he did, of course that does not, it is not necessary to relate it to the cost, to the field price, because one of the questions you have to answer and I am mindful of that, regardless of what value comes from the X cents which you might put down as the cost of producing crude oil in Turner Valley, nevertheless, presumably

if you felt you could do that, you would like to do it, because it is one of your duties, one of the things which has been asked of you and say you did put down, "in our opinion and the best calculation we have been able to make is that the cost is $1.98." Well that would just be an isolated finding, and after all if that can be done it should be done but it is to carry it out and make any use of it and to work it out as against this other thing that I am coming to and that is the field price.

MAJOR LIPSETT: Then if it is not interrupting you----

MR. FRAWLEY: No.

MAJOR LIPSETT: I am just trying to think this through. Take your suggestion now of this word "price" as related to Turner Valley and fixing the fair field price, supposing that owing to shortage or any other reason the Government of the United States said they required all their oil for themselves and that there was to be no further export of American crude----

MR. FRAWLEY: A lot of people would like that very much.

MAJOR LIPSETT: Yes, would your price then in Turner Valley automatically go up to what it would take to bring crude in from Venezuela or somewhere else, notwithstanding that the people are able to do all right at the present price for Turner Valley crude.

MR. FRAWLEY: Well you see, that is getting down to, to perhaps the ridiculous, ad absurdum, in connection with the force of this result and I am

going to say something in connection with that when I come to the proper field price to be paid but I think that----

THE CHAIRMAN: Partially no doubt that is so.

MR. FRAWLEY: Yes.

MAJOR LIPSETT: Your argument would go that length.

MR. FRAWLEY: Well I say my arguement, yes, the only one advanced here and the one I am bound therefore to think probably the Commission will have to accept, this competitive value, and frankly, without trying to make fun of it, I have, I intend to give you a very short picture of how this competitive price works. What happens when you introduce some different factors into it but there it is, it seems inevitable, it seems to be just the necessary result and I dare say if there was a catrastrophe of some kind in Montana today and no more Cut Bank, Cut Bank disappeared into the bowels of the earth, then I suppose we would go ranging abroad and we would go to Wyoming and we would say "What does it cost from Wyoming", and if we had no Wyoming, what would it cost from some other place. The value at Regina would go up and all the time the cost of crude would go up and then what is of great concern to me all the time, the tank waggon in Calgary would go up although we have lots of oil in Turner Valley; that is the competitive system when you go making prices on the basis of it.

[illegible]

[illegible]

[illegible]

[illegible]

However, I think that while it is not very satisfactory, but perhaps it is just inevitable. It is just perhaps something we have to accept and that is that the cost of Turner Valley, the cost that we will have to, that we will, my submission to the Commission is that the Commission will have to say that notwithstanding the studies which have been made, that we cannot give to the Lieutenant-Governor in-Council the cost of producing crude oil, subject always to what you say, Mr. Commissioner, being able to work out something in the way of an average.

MAJOR LIPSETT: It might possibly be said, Mr. Frawley, that the instance I am just putting to you, that that might be one of the cases referred to by Dr. Frey where the Government would have to interfere because something entirely exceptional had happened; probably that may be the answer.

MR. FRAWLEY: In the case of the, that it was an emergency.

MAJOR LIPSETT: Yes.

MR. FRAWLEY: Yes, I do not think we would be so blindly wedded to that theory. As you say that is where a little common sense would come into it and we do something arbitrary.

MR. PLOTKINS: Mr. Chairman, if I might interrupt with a little thought here, that if the United States did place an embargo on exports to Canada and we had to rely on our resources in order to supply our markets, the laws of competition would be the only laws that would take care of the situation because the

price would have to go up sufficiently high to replace the oil in the United States and thereby give incentive in Canada, either in Turner Valley or somewhere else, to get the quantity which would then be necessary and when that quantitity was obtained the price would go down, so if you did attempt to lower or to keep the price down, you would defeat the very purpose, and that is bring in enough oil to take care of our requirements so the laws of competition are natural laws and I do not see anything wrong with it in that regard.

THE CHAIRMAN: All right. Well now----

MR. FRAWLEY: Now passing from the cost of production to the field price and what the witnesses have called the economic fringe.

Now the only proposition advanced before the Commission and certainly accepted by the witnesses who gave evidence, and it is the competitive price proposition may be set out in these words:

"The field price of Turner Valley crude should
"be in dynamic competition with the crude from
"other fields."

Otherwise expressed the proposition may be stated:

"It must sell at a low enough price to displace
"competing crudes from its most advantageous
"market."

That is to say,"a market which can be supplied without too great sacrifice", so

[illegible]

that it may be said that the price cannot be any higher than that figure and it should not be any lower than that figure; that is a low enough price to displace competing crudes from its most advantageous market and,-I want to emphasise that,- because the market has been selected in this case and that is the most advantageous market which can be supplied without too great sacrifice. Now the free use of these words indicates that assumptions have been made, conclusions have been come to and opinions arrived at.

THE CHAIRMAN: Mr. Frawley, you were quoting there from where.

MR. FRAWLEY: I was not quoting, no, in using that expression I think that is certainly what Dr. Frey and Dr. Brown said but where it is said, unless it would be in Dr. Frey's memorandum 711, which I intend to read----

THE CHAIRMAN: Any reference you have to Volume or page it would help us if you would give it to us.

MR. FRAWLEY: Yes, I will remember that.

Now applying the propositions to our own field concretely there are a number of fundamental considerations which, after they are given thought to, arrive or bring us to a conclusion as to whether or not the present field price is a sound one or not. These propositions are to some extent mere statements of facts and in other instances is merely in-

ferences from facts which have been established in evidence.

Now the first consideration is that there are three refinery areas in Western Canada East of the mountains (1) the Calgary area; (2) the Regina-Moose Jaw area,-and each of those two areas, Calgary and Regina-Moose Jaw, represent about 10,000 barrels of crude daily and then, thirdly, that part of the Ontario refinery area lying in Manitoba so that there are three refinery areas in Western Canada; Calgary, Regina-Moose Jaw and the far Western Ontario;

Secondly, it may be confidently states that there is sufficient production in the field to supply all of those areas. I think that cannot be denied because we did supply all of those areas up to last year when there was less production than there is now.

Thirdly, the proposition must be accepted from the evidence that there can only be one field price but I have a serious modification to interject there because I am of the opinion and so submit to the Commission that there is nothing unsurmountable at all with having more than one field price if a marketing board were interposed. Now there would have to be such a board but I can conceive of nothing that would defeat the object of the scheme if we did want to send a thousand barrels or 1500 barrels to take back and recapture the Manitoba market and it had to sell at 90

cents. The value of that much crude at the Regina Refinery, turned into products to ship to Winnipeg shall be so much, very easily ascertainable.

(Page 16,880 follows)

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It may be 90 cents. I think somebody said 90 cents. Well, if it were wise, and I am not suggesting it would be wise - but if it were decided it were for any reason you like, and after all we are selling the crude and it does seem to me, whether it has ever struck anybody else that way or not, that there is something psychological about our being able to supply the Canadian market if we could. I think there is something that would be of value in the further development of Turner Valley if we were able to say "We, the Turner Valley producers, can supply the whole of Canada." That is always if it can be done economically, of course. There is no purpose in selling it if they have to sell it at 5 cents a barrel. But it seems to me that is at least a consideration. If it were possible and if it were wise and sound and proper to supply the Manitoba market and we wanted to push back that Ontario crude, and when I say "Ontario crude" I mean that Ontario gasoline; and when I say that I mean foreign crude. That is the only proper name to call it. If it were thought wise to do that surely a scheme could be worked out, such as is being worked out in the Province of British Columbia with respect to the fruit crop. That a certain number of barrels would have to sell at 90 cents and they would have to be sold to a marketing board and then sold to the refiners from the marketing board at the price of 90 cents and the returns pro-rated over all the producers. It might involve selling all of the production to the marketing board. There is not anything difficult about that. A scheme could be worked out. I only suggest that because it might have to come to that because the alternative, the only other alternative as given here

in the evidence and established by the Exhibits is a perfectly absurd one and one that is not worth while looking at a second time. That is one holding the field price down to 90 cents for the purpose of taking that portion of the Western Canadian markets represented by the Manitoba consumption. That, of course, would give us a low price for gasoline in Calgary. But, after all, there are the interests of the producers to consider and to ask a producer to sell all of his crude for the marginal price at Manitoba would be asking him to take a reduction in his total income which, of course, he would not take, and that is the end of that.

THE CHAIRMAN: Have we a single witness who puts forward that view?

MR. FRAWLEY: That there should be a marketing board. No.

THE CHAIRMAN: That would bring about the result you speak of in the views you mention?

MR. FRAWLEY: No, everybody says "We do not want"-----well, I do not say - we have a witness and I will try and find that for you, who agrees - I do not know whether it is Dr. Brown, who simply says, without giving the matter any thought, "I suppose that it could be worked out that way", something of that sort. I do not know that he goes any further than that. Because he does not subscribe to it. He simply says he looks at it the other way. These men who came here from the United States do not want any intervention of any kind. I mean they came with those views, like the blood coursing through their veins, and they say that they have not given any thought to the

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imposition of a marketing board. It is just as bad as any other sort of board which would assume any real power in the regulation of this industry. However, that is a digression. I think, Mr. Chairman, we would not find anything more than a simple, casual statement by either Dr. Brown or Dr. Frey, or perhaps both of them, who say that, perhaps, it could be worked out like that, worked out with a marketing board. But I could not seriously submit it in answering your question that there is anything in the evidence upon which the Commission could accept this submission of mine frankly because it is something you would have to apply your own minds to. Which, of course, let me say at once, because I am going to have to say it many times and I might as well as it now as say it later, that this Commission is not bound to accept the evidence of a single witness and, notwithstanding the absence of any evidence, can of its own original conclusions and having applied its own original minds to it, can come to recommendations and submit them to the Lieutenant-Governor-in-Council.

MR. COMMISSIONER LIPSETT: I think, Mr. Frawley, there are two witnesses - I only thought Dr. Frey went a little further than, perhaps, you said in that direction. I think I had some discussion with him. I haven't a note here about it.

MR. FRAWLEY: It may be worth while now to see what he does say about that.

THE CHAIRMAN: There is much discussion about that.

MR. COMMISSIONER LIPSETT: I rather gathered that, my recollection is that the effect of the statement was if you had some body set up handling the whole marketing then it was advisable.

MR. FRAWLEY: Mr. Nolan has kindly pointed to

something for me. Volume 125. I have found, Mr. Chairman, I think what Dr. Brown says about it. I must confess you are quite right. He does discuss it and points out the difficulties and so on. In Volume 125 at page 14,029, this is the examination:

"Q MR. FRAWLEY: Now, Dr. Brown, have you
" finished that particular picture?
"A I have finished that, Sir.
"Q That is all based on the assumption that all the price,
" the whole of the field price, must go down for all of
" the crude which the producer sells, to gain the Winnipeg
" market?
"A That is right. It is based on a uniform price in the
" field.
"Q Now, it seems to be in the mind of some people highly
" deplorable that the Turner Valley producer has lost the
" Winnipeg market. We had it for maybe one or two years,
" now it is sad to contemplate that we lost that to Illinois,
" and it is present in everybody's mind, and I am sure in
" the Imperial Oil's mind as well, that that market should
" be recaptured if it is at all possible; is it entirely
" preposterous to suggest, an entirely preposterous
" suggestion to make, that some scheme might be worked out
" whereby for the Calgary requirements a certain price might
" be posted and obtained, - I am not thinking of any
" additional price to the consumer, that is the last thing
" I am thinking about, that there should be any additional
" price to the consumer, but that a certain price should
" be obtained, a certain price at the well, for what goes
" into the Calgary refinery and a certain price for the

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" extra amount which is used to go further into Southern
" Alberta, if that would seem to be desirable, and a
" certain price to go further eastward now to recapture
" the Winnipeg market; and I would like to have your views
" and, perhaps, also in due time Dr. Frey's views about the
" advisability or the non-advisability of any such scheme
" as that which would probably mean the intervention of
" some marketing board or something like that?
"A I believe Dr. Frey can discuss that question with more
" familiarity than I can but it is my opinion that any
" such situation as that is fraught with dynamite and is
" almost impossible. The only way it could be handled at
" all is to establish a complete monopoly by some means and
" use the pool or the Cartel proposition and pay a uniform
" price to all the crude that is produced in the field
" and then sell some of it at a higher price and some
" at a lower price. It certainly is not a system of free
" competition and you are throwing over all the bases that
" we have used and all the bases that we can use to try to
" figure out an economic balance or what is an economic
" solution of the problem. It changes the picture
" entirely.
"Q Would it be very difficult to work out, you say they
" would have to take 47 cents less to get the Winnipeg
" market, 47 cents less than the $1.20, and you see, that
" may be mixed up with the whole price of 73 cents, would
" it be a difficult thing to figure out how much less,
" what the position of the thing would be if he got 47
" cents less for just that portion which went into Winnipeg
" and 43 cents less-----

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"Q THE CHAIRMAN: Is there a practical difficulty in setting up two prices without creating a pool, a unit
" operation, have you not the practical difficulty that
" everybody would want to sell his oil at the higher price?
"A Yes.
"Q Nobody would want to take the low price, is that not the
" real practical difficulty, in the absence of a unit
" operation?
"A I think that is absolutely true and I believe that Dr.
" Frey has stated that here, has he not?
"Q Yes, he has.
"A He will answer that but I agree with what he has stated
" which was to the effect that if there is a regular price
" posted or considered to be a regular price in the field
" and there is appreciable crude moving out of that field
" at either lower or higher prices and that continues,
" sooner or later there will be a shifting in the uniform
" posted price. Now if we are going to have a standard
" price of $1.20 in the field and if considerable crude
" is going at 75 cents a barrel, that situation cannot
" exist for any length of time without something happening,
" either all of it goes to 75 cents or they strike a
" compromise somewhere in between, say $1.10 or something
" else happening, unless you have in the field a complete
" monopoly such as the cartel or a pool or something of
" that nature.
"Q I suppose somebody will discuss it in time, but outside
" of a monopoly there may be divided ownership in unit
" operation, may there not?
"A You mean an unit operation in the field?
"Q Yes.

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"A Oh, yes.

"Q And yet divided ownership?

"A Oh, yes. It has not always worked out successfully but
" there is no reason why it cannot be done.

MR. NOLAN: There is another reference, if we might give that to you now?

THE CHAIRMAN: Yes.

MR. FRAWLEY: To complete what Dr. Brown says in Volume 126 at page 14,054. Well, I suppose I should read the Question at the bottom of page 14,053.

"Q MR. FRAWLEY: Then assuming, contrary to
" your own view, Dr. Brown that it is desirable to push
" this crude into the Winnipeg market and it was suggested
" to you yesterday there might be some way in which the
" price for, the present price might be continued for all
" of the crude except what goes into the Winnipeg market
" and a lower price for that crude, for that portion of it
" which goes in, now what are your views of the possibilities
" of any such scheme?

"A Well I am firmly convinced that any effort to maintain one
" price for crude which goes to Calgary and another price
" for crude that goes to Regina and if marketed as
" finished products only as far east as Portage La Prairie
" and another price distinct from that for crude which
" goes to the same refinery and if marketed as far east
" as Winnipeg is hopeless. I do not see how that can be
" done. However, the equivalent of that could be done
" if all of the crude produced in these fields was pooled
" and a pro-rated price paid to the producer, which would

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" mean a reduction of about 7 or $7\frac{1}{2}$ cents per barrel on
" all of the crude. And then by some elaborate policing
" method give rebates to certain refineries or certain
" operations which might market their products in Winnipeg.
" The only practical way to do that that I can visualize is
" either a complete monopoly in the control of all of the
" crude available in Alberta in private hands, if it is so
" considered to be desirable, or a complete monopoly in the
" marketing of that crude in a Government body, so that
" there will be no chance for someone to break out from under
" that regulation. That means that the latter procedure
" then is indicated because if one producer refuses to go
" in with that or one single well, the whole structureqwill
" be broken down very shortly. That means you have to
" depart entirely from all consideration of an economic
" balance. You have got to abandon the principle which is
" now in universal application throughout the world, that
" all crudes find their economic level based upon the
" competitive condition which exists throughout the world.
" You have to set up arbitrary methods of marketing crude
" and the only way I can see which will work is a rigorous
" pool completely controlling the marketing of crude from
" this territory. And even then the return to the producers
" would probably not be increased because of the increased
" cost of handling this method of marketing, under present
" conditions. When transportation costs change, of course,
" I want you to realize all my statements will be revised."
and so on.

MR. COMMISSIONER LIPSETT: There was another reference in that Volume at the afternoon session, Mr. Frawley, and my note

was that no attempt should be made to extend the market simply by means of reducing the price of crude.

MR. FRAWLEY: Yes, he repeats that very often. That is his cardinal principle. He thinks under the present conditions of transportation rates and so on that the producer should not be expected to carry the whole load of pushing this crude any further than its present exonomic fringe.

MR. NOLAN: I think that is page 14,052, Mr. Frawley.

THE CHAIRMAN: That is not on this marketing board though?

MR. FRAWLEY: No. That is another thing.

THE CHAIRMAN: Let us finish it. Is there anything that Dr. Brown says about the marketing board?

MR. FRAWLEY: Yes, one point here. Page 14,056, Volume 126.

"Q MR. COMMISSIONER LIPSETT: Dr. Brown, following up
" that statement that one well could break down the
" whole price structure, is that any different to the
" present position? There are wells that are not bound
" to-day and they do not seem to affect the price structure?
"A But the present condition is not with a fictitious,
" unsound price. The present condition is that price
" which is arrived at by trial and error and by combined
" judgment to put the crude in competitive balance at
" Regina. I consider that price has been arrived at very
" closely. I think it is really a very sound price
" based on conditions as they were when that price was
" set. Now, if you want to upset that economic price

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" and then do the other thing, it makes it still more
" difficult, that is to maintain two prices for the
" same crude in the same field at the same time. There
" is only one practical way to do that, in my opinion,
" and that is to take the entire marketing of all crude
" into one body which has complete control of the
" marketing of that crude. Furthermore, in order to
" carry on the object of the move a rather rigorous
" policing effort for the handling of the rebates which
" would have to be given to those refiners which do
" market the product in Winnipeg.
"Q Now, I suppose three refineries would be affected by
" an effort to get the Winnipeg market. There would be
" Regina and Brandon and Moose Jaw?
"A Moose Jaw, probably.
"Q Now, those would be the only three that would be
" affected?
"A Unless this situation might stimulate somebody else to
" go in there somewhere and figure because of the
" rebates you are giving for the product marketed in
" Winnipeg he could make money.
"Q And that would be increased production to Turner Valley,
" would it not?
"A Yes. There would be more crude run but, as I have in-
" dicated before, at a price which I think does not
" justify running the additional crude."

Now, I think without any more----

THE CHAIRMAN: He is very definitely of the opinion that one would say, wouldn't you, Mr. Frawley, that a scheme of a marketing board is not a feasible one?

MR. FRAWLEY: Yes.

THE CHAIRMAN: For the services we are now discussing?

MR. FRAWLEY: Yes, he sees a lot of difficulties in it and he says that is the only way it can be done and then he points out the difficulties that would attend even the doing of that. I think that is, perhaps, a fair way of putting it. I think it is like everything else, there would not be anything impossible about it but his opinion would be there would be difficulties and imperfections.

THE CHAIRMAN: He is quite clear you would have to market all the oil?

MR. FRAWLEY: Yes, all goes into the pool.

THE CHAIRMAN: You have to take over all the oil and have it under the complete control of the marketing board?

MR. FRAWLEY: Yes.

THE CHAIRMAN: There must be no well outside?

MR. FRAWLEY: Yes, I think so.

MR. HARVIE: And policing in Winnipeg, which is out of our jurisdiction.

MR. FRAWLEY: That is the fundamental thing.

THE CHAIRMAN: He says having done that then if your policing is efficient perhaps you can work it out but you are going into the unknown and you are upsetting the whole basis of any economic scheme that anybody has yet evolved.

MR. FRAWLEY: Yes. I think as to that I am afraid I must put myself in the same class. Dr. Brown has not really and definitely applied his mind to what might be called the cartelization of Turner Valley crude. After all,

we cannot just scoff at cartels. They have been worked successfully in certain parts of the world but they are contrary and foreign to these competitive principles to which Dr. Brown subscribes.

THE CHAIRMAN: I am coming to that. You won't mind our interrupting you because you are the last counsel that we will listen to and if we are ever going to get help we have to get it ere you are done because we will have no other counsel to help us. Now then he says that Dr. Frey will speak better than he about this. Dr. Frey has spoken. Dr. Frey has spoken about cartels and Mr. LeSueur, I think, spoke about cartels. I am proposing - subject always to not interfering with your course of argument - that we run this down right now. We are on the subject and let us clear it up, if it is convenient for you.

MR. FRAWLEY: Yes, we may as well go to it and we can find out what they say. It is going to take some time to get through this discussion but rather than go back to it we may as well finish now.

THE CHAIRMAN: Yes. It is worth while, I feel.

MR. FRAWLEY: What Dr. Frey says about cartels.

THE CHAIRMAN: And speaking generally about marketing through a board, because that was put to him.

MR. FRAWLEY: We might take five minutes to get it in shape for you. It might be better because I am sure my friend Mr. Harvie and my friend Mr. Nolan will be glad to help you.

THE CHAIRMAN: Yes, I am sure.

MR. NOLAN: The reference that Dr. Brown made to this matter on the occasion of his first visit is

contained in Volume 79. I will give you the page, Mr. Frawley.

MR. FRAWLEY: Let us dispose of Dr. Brown now. What my friend Mr. Nolan is calling my attention to is in Volume 79. In June, that was. Page 9207. Dr. Brown said:

"Q That is the lowest refining costs that you spoke
" about earlier in your evidence?
"A Yes, under conditions as they exist.
"Q You take that as a yardstick?
"A I believe that would be the proper basis under these
" conditions.
"Q And not an appraised value?
"A No, not under these conditions as they now exist here.
"Q You do not think the conditions as they exist here
" lend themselves to public utility regulation?
"A No.
"Q I wonder if the fact that the products of this refinery
" are distributed in three Provinces has led you to that
" conclusion or influenced you?
"A No, I was not considering it from that standpoint.
"Q But if you did consider it?
"A That would only complicate the public utility attitude,
" It would mean that the utility would have to be
" controlled perhaps by a Board common to the three
" Provinces."

That is somewhat along the same line.

THE CHAIRMAN: Well, let us know, Mr. Frawley. I would like to have gathered together all that Dr. Frey said on this subject of a board and cartels and so on. That is distinct from what Dr. Brown has had to say, about

going beyond the economic fringe and so on.

MR. FRAWLEY: Yes, I will try and find it.

(At this stage there was a short recess.)

MR. FRAWLEY: There are some references here. Dr. Brown, on the 16th of June, in Volume 79,-----

THE CHAIRMAN: Page 9027 you gave us.

MR. FRAWLEY: Yes, I gave you that before you went out. This, I think, is right in point. Volume 79, page 9184, starting at the bottom of the page.

THE CHAIRMAN: You see, it is interesting that Dr. Brown might not have had his mind directed to this when he first came but he certainly had his mind directed to it on the occasion of that visit and, perhaps, it is a more considered opinion that we get on his second visit.

MR. FRAWLEY: This was his first visit.

THE CHAIRMAN: And I say the fact that he spoke on both occasions lends weight to what he said on the last occasion because he must have thought about it in the meanwhile.

MR. FRAWLEY: At the bottom of page 9184 Major Lipsett says:

" I do not know, Dr. Brown, we have had some other
" opinions upon the subject, I do not know if you have
" considered at all the question of two prices for
" Turner Valley crude, one say for the Calgary refinery
" and another for Regina and one, a lower price with a
" view of putting the products further East or further
" North?
"A Yes."

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I do not want you to be too disturbed about Major Lipsett's opening there. Probably he was referring to the fact that Mr. McGrath had told us about his building up of the price, by taking the three prices, because certainly Dr. Brown, I do not think, had spoken about it before. Well, obviously, you are now asking him for the first time, as I gather.

"Q Let us say that 90% of the product was sold at a
" certain posted price, where it would be possible to
" allow 10% of everybody's production to be marketed
" at a lower price, with a view of extending the market,
" we have had a number of opinions, perhaps you would
" like to express some opinion?
"A That works itself out as the equivalent to an export
" bounty paid by the producers and the only practical
" way of working out such a scheme as I see it would be
" to organize a sort of cartel or a monopolistic cor-
" poration or group or body which would take all of the
" crude from all of the producers and pay them an
" average price and then peddle that crude out at the
" different prices to the different parties. It is
" something which I do not see, I do not see how that
" thing can be handled in any other way."

(Page 16,895 follows.)

"Q. Well there may be practical difficulties but on
" the main question itself, have you any view as to
" whether such a system might be desirable or not?
"A Well it would depend a great deal on what you would
" have to do. I am presently of the opinion that the
" gain in production would be obtained only at such a
" great sacrifice in price that it really would not
" be worth the effort."

MR. HELMAN: My Lord, if I might interrupt Mr. Frawley, may I say one word. Mr. Mahaffy had intended listening to Mr. Frawley's argument but he is sick at home in bed with the flu today and I thought I would point that out to Your Lordship, that that is the reason he is not here. I think perhaps if Mr. Frawley gave him his notes he might be well enough to be here tomorrow and if he had Mr. Frawley's notes he could familiarize himself with that.

I just wanted Your Lordship to know it was not a matter of discourtesy to this Commission that he is not here.

THE CHAIRMAN: Yes.

MR. FRAWLEY: "I believe that in order to go
"further East than Regina the price would have to go
"down very rapidly for a slight increase in market.
"The freight rates are such that it works against
"carrying oil further East and if you try to carry it
"as far as Sarnia it means you would practically have
"to give the oil away. On the other hand, if you try
"to go West and carry it over the mountains and compete
"with California, practically the same situation exists
"so I believe, speaking really without a thorough study

" of it, but from a preliminary study only, that
" any such plan would really be of very little material
" aid in widening the market; in other words, the loss
" in income due to the decreased price would not compen-
" sate, would be more severe than could be compensated
" for by the increased volume of crude.
"Q Thank you, Dr. Brown?
"A But that is not final.
"Q I was going to say that if anything further occurred
" to you as a result of your studies it would be of
" interest?
"A I will try and study that."

You are remarkably right, Mr. Chairman, that he went away with the idea that he would study it because he certainly was not helping us right there. He was on to something else. He was on this question of going down, on the propositions which I suggested which was "all into a Cartel and then divide it out" it would not just run down as he indicates here.

MAJOR LIPSETT: What you are saying there, he is not saying there that it was not practical, all he is saying is it was not workable.

MR. FRAWLEY: No, but when he comes back he does go into it more completely.

Now there was something else; I wanted to call your attention to what Dr. Frey had to say in Volume 133, Dr. Frey ----

MR. NOLAN: Page 14,841.

MR. FRAWLEY: And I think it is the only discussion and it is not really on the point. We seem to be

agreed that Dr. Brown is the person who seems to apply his mind more thoroughly to the Cartel.

Now what I am going to read to you from Dr. Frey is his views on national monopolies, railways, but it is the only thing which seems to bear on this at all, in Volume 133 at Page 14,841:

"THE CHAIRMAN: I think we have explored this "as far as it is necessary to bring out Dr. Frey's views. "But I would like to ask Dr. Frey one thing that is "germane and that is not going back to that subject.

"Q Dr. Frey you have expressed views that would lead " me to think that you were against monopolies?
"A Yes Sir, I am against monopolies.
"Q Now in view of what has been said I wondered what " your views would be as to a monopoly that was " Government controlled. You see it is your view " and no doubt well founded that violent price " reductions while they would be welcomed by the " public would make for monopoly?"

Now I will not pursue that any further, Mr. Chairman, if you think that is not on just what you want. He went on and talked about the Italian Monopoly, the Spanish Petroleum Monopoly and I think he referred to Russia and so on.

MR. NOLAN: And then the Inter-State Commerce Commission.

MR. FRAWLEY: Then he works from that, you see, into Russia and then New Zealand, it will probably only be necessary to say that on Page 14,841 and 14,842 he refers to the French Monopoly, the Italian Monopoly, not the French,

the Italian Monopoly and the Spanish Monopoly and the French Monopoly, that is true, and then the Italian Monopoly and then the Chairman says on Page 14,843:

"Q And Russia of course?
"A Well Russia, that is ---
"Q State owned?
"A State owned. It is a Communistic arrangement.
" Of course the Russian experiment is the most
" glaring example of what not to do.
"Q What is the situation in New Zealand Dr. do you
" you know?
"A New Zealand. No I cannot recall offhand what they
" have done in New Zealand. I have not looked at
" that for some time. I would not want to trust my
" memory on it.
"Q Very good.
"A But certainly as an example of monopoly, although
" it is Communism in Russia we have a perfect example
" of the failure of a Government to operate an industry
" effectively.
"Q That is direct Government operation.
"A Direct Government operation. It has been a failure.
" Incidentally there is direct Government operation
" in Argentina in the so-called National Oil Fields
" Limited, in which there is considerable control
" exercised. Brazil also has an essential monopoly.
" So I know that we have a good many examples of
" monopoly."

And then you discussed the French situation with him, Mr. Chairman.

THE CHAIRMAN: . Speaking from memory, I have not my notes here but didn't Dr. Frey direct his mind to this very point of two prices.

MR. FRAWLEY: Well now we think we are in agreement ---

THE CHAIRMAN: I certainly thought he did.

MR. FRAWLEY: It may be, indeed it is worth while ---

THE CHAIRMAN: My thought is, Mr. Frawley, instead of doing what we do, as we did, in the taking of evidence, that is having it all mixed up and coming back to this and that, if we could now in your argument as we go along have it altogether.

MR. FRAWLEY: I think just clean it up.

THE CHAIRMAN: Exactly.

MR. FRAWLEY: I think so.

THE CHAIRMAN: It will be so much more useful to us.

MR. FRAWLEY: I recognize it is not a help if it is not. It is very hard for me to say I will look at it and give it to you because I know that is going to be a very difficult thing as I have so many other things that have to be discussed.

THE CHAIRMAN: Yes, I think so far as we can we will get the evidence as we come to any particular point. I think Dr. Frey, he certainly said something about, I cannot imagine r not asking him about this very thing in all the time he was here.

MR. NOLAN: I would like, Mr. Frawley, to draw your attention to these two pages, 14,845 and 14,846

because that does deal with the question of State or National Monopoly.

MR. FRAWLEY: I will read that, I did not think that was just what the Chairman wanted.

MR. NOLAN: It is not exactly but it is on the point we have been adverting to. It is not on the question of two prices to extend the market but it is on the same point of monopoly.

MR. FRAWLEY: Then Page 14,845, when you are speaking about the question, perhaps I might start at the bottom of Page 14,844;

"Q But speaking of a type of control --"

Let me begin reading where I left off, after discussing that French situation on Page 14,844 you say, you, Mr. Chairman:

"Q Have you examined into a situation anywhere where
" there was Government control like in Utility
" control, like unto the type of control that your
" Interstate Commerce Commission exercises within
" its field, of which everybody approves in the
" United States don't they?
"A I would not say everybody.
"Q Well not everybody, but the great majority of
" thinking men give the stamp of their approval to
" it, or don't they?
"A To a limited extent. We all recognize the weak-
" nesses of the I.C.C. but we think the principle is
" good. We would like to see it a more effective
" instrument than it is now and I think the I.C.C.
" too would like to become more effective than it is.

"Q But speaking of a type of control as distinquished from
" the taking over of an indsutry. Let me put it another
" way if I may and you can get the thought which is in my
" mind. We have a duty to explore and find out all that
" we can about this Industry. Now there is the one point
" of view which you have sowell put forward that free and
" unrestricted competition will always serve to protect the
" public?
"A Except under the conditions ---
"Q Except under the four conditions that you adverted to
" yesterday?
"A Yes, sir.
"Q Now there will be the other point of view, of course,
" to which we must give consideration even as we do to
" yours.
"A Yes, sir.
"Q Namely, that the public is not adequately protected, that
" competition as we know it in the ordinary run and not in
" the emergent conditions of which you have spoken, is not
" adequately protected; that is the theory of gain being
" that which is the urge for every company is not enough
" to protect the individual who must have the particular
" product under consideration. And so that person says,
" 'Well something has got to be done about this,' and natur-
" ally one explores ways and means to give effect to his
" views to see where it would land us. And so I put it to
" you that there are those who are prepared to support the
" view that monopolistic control is not a bad thing, provid-
" ing that it is supervised by competent Governmental agency.
" You think there is nothing to that?

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"A I would not say there is nothing to it. No I would not
" want to say that. I should say that we would have to
" consider what we would expect of a gain for the difficulties
" and costs that we would go to in producing the results.
" I should say for instance applying it in a State for
" example - I prefer to, if you will permit me, to consider
" my own country rather than yours because I do not feel I
" should comment on what the Government of Canada or the
" Government of Alberta should do - in my own country
" I would consider that the establishment of a monopoly
" by a State would be practically impossible. That there
" could be such a thing as a National monopoly and not a
" State monopoly. If we had a State monopoly we would of
" course be immediately up against the problem of the inter-
" ference with trade as between States, which to us is a
" fundamental tenet. We demand that commerce must move
" freely as between States and that no State with us has
" the right to set up any obstructions for another state
" in the matter of commerce. Now we would have to, if we
" were establishing a State monopoly, create boundaries
" around that State and prohibit all other companies from
" having any dealings in that State and we would have to
" decide then as a State from which State we would buy.
" If, for instance, we were not able to produce all that
" we needed we would have to decide what State we were going
" to buy from and which ones we would not buy from. And if
" we produced more than we needed we would have to determine
" which State we would sell to and which State we would not
" sell to, which makes for a very difficult political
" situation. You see we cannot control imports and we
" cannot control exports without violating the fundamental

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" tenet of our constitution and to set up a barrier around this thing would be very difficult anyway because we would have a conflict of price between our State and neighboring State's around us. Take a person - well say there were a monopoly in Tennessee and a man drives through in his automobile from Kentucky into Tennessee but he is going right out of the State iand into Georgia. The question then would be how much gasoline would he be permitted to carry into the State because after all the State monopoly would be created for the benefit of the people of that State; and what kind of an arrangement would have to be made concerning the use of highways across that State if this person living in another State did not reciprocate in some way to the State that had the monopoly. All theway around there would be difficulties. So it seems to me that with us it would be absolutely impractical and practically impossible for any State to develop a monopoly without regard for the other States. And we are having a difficult enough time where that principle has raised its head even to a minor extent.

" We have for instance the example of a State having established a cement control and the impingement of that cement control on other States which has caused very considerable difficulty and if the principle goes on it bears far to completely change our constitutional set-up and the freedom of trade as between States but as between nations that seems to me to be a different thing. If a nation considered that in its just interests there should be a monopoly, that would be

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" a question of policy for that Government; a
" State monopoly as distinct from a national monopoly
" does not seem to have any particular possibilities.
"Q THE CHAIRMAN: And perhaps the difficulties with
" respect to which you speak with regard to the State
" monopoly would apply with equal force in this
" ccountry?
"A I do not know.
"Q Perhaps that is so."

And then you refer, Mr. Chairman, to the Dominion Railway Board and he then says:

" I always fall back on the problem of the adminis-
" trative difficulties. Maybe I am lazy "

and you recall what he said about that:

" I shudder at the consequences because it would
" involve a decision in which I would have to make
" up my mind very definitely, very clearly, as to
" whom I was going to hurt and why I was going to
" hurt them."

That is on Page 14,849.

Yes, at Page 14,854, just one answer that my friend Mr. Nolan calls my attention to; the question was:

"Q In this countray that, of course, would be a
" Dominion Agency of necessity?"

that is a question by yourself, Mr. Chairman and the answer was:

"A Yes. I am inclined to believe that, as with us,
" if there is control over Industry, it must be

[illegible]

"   exercised over a wide area rather than over a
"   small area.
"Q Yes, I am speaking of country-wide, in our case,
"   Dominion wide?"

And then he goes into the National Industrial Relations Act.

MAJOR LIPSETT: I suppose that is because of the States, Mr. Frawley, the production of crude was nation wide, I mean it extends into several states there.

MR. FRAWLEY: Yes, yes. Well I will have something to say later on when we come to what is practical because I am, so far as I am concerned, I am going to make a submission to the Commission that there should be some regulation of this Industry.

THE CHAIRMAN: You do not find any place in which Dr. Frey was asked his views as to whether or not we should have two prices?

MR. FRAWLEY: No, I do not, because the rest of this volume ---

THE CHAIRMAN: That is Volume 135, is that his first visit or his last?

MR. FRAWLEY: No, this is on the 27th of October, just about the time he was leaving and then in his summary, I will see if he said anything in his summary ---

MR. NOLAN: I wonder, Mr. Chairman, if it was, on Dr. Frey's first visit he talked only of the cost of production.

MR. FRAWLEY: He just made one statement, Mr. Chairman, that is quite right.

MR. NOLAN: So if there were any it would be precisely where we are looking now.

MR. FRAWLEY: It will not take very long now to finish our exploration of it. Now this is the last chance I think, this is when he was doing some summing up and at Page, Volume 137, Page 15,339, Number 10:

"Price is determined on short swings on a competitive "basis without regard for costs; that is it is "influenced by factors which have been considered here; "the extent of use, the economic fringe and so on. It "is influenced by the Law of Diminishing Returns as "one approximates the economic fringe.

" I have suggested that in the "long swing that there is a marginal factor, that is "the cost of production by marginal wells. That is the "last necessary well to bring in the production which is "required, that that in the long swing does have a "marked effect upon price."

And that certainly completes his evidence on that point.

MAJOR LIPSETT: He refers to unit operation there as an idea and the difficulty of divided ownership.

MR. FRAWLEY: What is that reference?

THE CHAIRMAN: Where he deals withproduction in Volume 137.

MR. FRAWLEY: Yes, at Page 15,335 my note is that he makes a short reference to that, he simply says, "Unit operation'

On Page 15,335:

"Unit operation is an ideal towards which drilling and "production should be directed but this is difficult to "accomplish under divided ownership."

And that is all he says.

THE CHAIRMAN: Well, Dr. Frey was the marketer, surely we put it to him as to whether they should market under two prices.

MR. HARVIE: I might say that Mr. Cottle and I have checked it from my notes and the evidence of the 18th of October where Dr. Frey has dealt with the subject of posted field price and the matter of competition between Alberta and Montana and whether ---

THE CHAIRMAN: Volume what?

MR. HARVIE: Volume 125.

MR. FRAWLEY: That is where it would be, of course, unless it were just asked him out of place.

MR. COTTLE: He was asked many questions there but more or less as to the working of competition in setting field prices.

MR. NOLAN: And he discussed the whole question of Government agencies later on in Volume 137.

THE CHAIRMAN: What page did you refer to, Mr. Harvie?

MR. HARVIE: Well his evidence is in that whole volume and we have just gone through it to see if there was anything on that point and we have been unable to find anything at all as to two prices in Turner Valley.

MR. COTTLE: In that volume he explains the operations and the mechanism of the determination of the field price in other fields but he was not asked any specific questions about the maintenance of more than one price in one field.

THE CHAIRMAN: Well Mr. Frawley ---

MR. FRAWLEY: It does not seem that there is

anything.

THE CHAIRMAN: I will look at my notes at the noon hour.

MR. FRAWLEY: It may be something that he will have to come back to. We will make another examination of our notes and the evidence to see what we can find.

Now passing then ----

THE CHAIRMAN: It seems strange that none of us would think to ask the expert marketer unless we were convinced by Dr. Brown of the futility of such a scheme.

MR. FRAWLEY: Yes, because I said, in asking Dr. Brown, I said I would ask and find out what Dr. Frey thought about it.

THE CHAIRMAN: And we were told by Dr. Brown that Dr. Frey would be the better one to ask and I have a feeling that somewhere interwoven in all of Dr. Frey's evidence, he has been asked about that.

MR. FRAWLEY: I do not know whether this is an instance of it or not, but there were certainly instances where there were direct discussions with Dr. Frey amd we found that he had certain views which we did not think, and perhaps wrongly, would assist this Commission in its work and would be just adding to what Dr. Brown had said and perhaps wrongfully we failed to bring it out and put it before the Commission and this may be one of those instances.

THE CHAIRMAN: I am not satisfied yet that it is but I will go through my notes, I think we should not delay you any longer over that now.

MR. FRAWLEY: Then the proposition which I was giving to you was that that was one of the fundamental

propositions to be considered here, that there should be only one field price.

Then next we were agreed that the field should supply the entire Calgary area. Now that is just a fundamental proposition and accepted in our thinking and in the steps which we took to arrive at what the fair field price and the proper economic fringe is; that the Turner Valley field should supply the entire Calgary area.

Then the question immediately arises what part of the Regina-Moose Jaw area ---

MAJOR LIPSETT: The Calgary area, Mr. Frawley, is it not a fact that it is supplying the Calgary area at the present time?

MR. FRAWLEY: It is not.

MAJOR LIPSETT: Turner Valley is not, there is considerable importation from Montana.

MR. FRAWLEY: Oh well the price basis involves the proposition that all the Calgary area is to be supplied from the Imperial Refinery at Calgary. You must remember that this field price was arrived at by the Imperial people, being the larger people and they are the people who went to Regina and found the competitive value of the crude at Regina.

MR. COTTLE: Of course, Mr. Frawley, you are referring to these areas as being refinery areas.

MR. FRAWLEY: Yes, refinery areas. As I said, there were three refinery areas, Calgary, that goes just wherever it goes and it does go in fact even, even although it goes uneconomically, right down to the Montana border, but if you mean, Mr. Commissioner, that other crude comes in or other gasoline comes in, yes, I do not mean that Turner Valley

is now supplying the whole of the market.

MAJOR LIPSETT: You mean that the price is such now that it is economical for the Calgary refineries to use Turner Valley crude.

MR. FRAWLEY: Oh, yes, sure and we say that they should be shot out, one of the objects is to supply the whole of the Calgary area, the Calgary refinery area and then what part of a further area should be supplied.

(Go to Page 16,911)

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And we then must determine what part of the Regina - Moose Jaw area and the Ontario area should Turner Valley crude supply. Now the next proposition is if the producer in Turner Valley had been content to supply the Calgary area only, then from the evidence that has been filed, particularly Exhibit "263", we know that he could have secured a price of something in excess of $1.60 a barrel for the Calgary requirements of 10,000 per day. Exhibit "263" shows, of course, starting with a well price of $1.00 at Cut Bank, and only thinking of the Calgary refinery now, not Regina at all, that the well price of 48 gravity crude was $1.62, and translating that into the crude we are interested in, 43 gravity, it is about $1.60, something in excess of $1.60. And, of course, our starting point is $1.10. We reject Mr. McGrath's calculations to that extent and substitute Dr. Frey's $1.10. Substituting Dr. Frey's $1.10 as being the well price of 37 gravity Cut Bank crude, $1.10 and not $1.00 as shown in Exhibit "263" - then the calculation works out at something over $1.60 as the price which the Turner Valley producer could have secured for 10,000 barrels per day. But no more. So we know that is not good enough. We are not content now to remain in the Calgary Refinery area alone.

MR. COMMISSIONER LIPSETT: Exhibit "263" on the basis of $1.00 Cut Bank, does it show $1.60 at Calgary?

MR. FRAWLEY: Exhibit "263" is only based on $1.00 Cut Bank and then shows $1.62 for 48 gravity....

MR. COTTLE: 43 gravity which is the present average gravity would be $1.52, using $1.00 as your starting point. Using $1.10 as your starting point it would be something in excess of $1.60. Not exactly

10 cents higher, it would be 12 or 14 cents higher.

MR. HARVIE: $1.67 is Dr. Frey's evidence.

MR. FRAWLEY: I think the only thing is to take Exhibit "263" and see what exactly that is and then you can substitute in accordance with Dr. Frey's evidence, and then Mr. Cottle will work out the other figure. You may go over "263" again. "263" is an attempt to show the price which the Turner Valley producer could get for his crude if he was only supplying the Calgary Refinery. But Mr. McGrath starts with a well price at Cut Bank of $1.00. We just reject that immediately. But we will leave that there where Mr. McGrath leaves it. $1.00. Taking $1.00 as his Cut Bank price, Mr. McGrath determines the value at the well of 1 barrel of 48 gravity Turner Valley crude as $1.6211 or $1.62 cents. Now we substitute 43 gravity Turner Valley for 48, because our $1.20, the one we are so familiar with is 43 gravity. We also substitute Dr. Frey's $1.10 as the Montana price, for Mr. McGrath's $1.00 price, and that is a mere matter of computation and Mr. Cottle says that works out at - you can do it exactly - however it is something over $1.60.

MR. COTTLE: It would be about $1.67. But there is really no object in trying to be too exact about it though, because if we are to determine what price Turner Valley crude would or could be, if it supplied only 10,000 barrels a day in the Calgary area, many of the factors that the present judgment is based on and the factors included in Exhibit "263" would be different.

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What price Montana crude would be if Turner Valley crude was not being shipped into Regina and Moose Jaw we do not know. And what competition from refined products coming into Alberta from Montana would be we do not know. But using the information that we now have......

THE CHAIRMAN: And what the cost for this lesser amount of throughput would be to the producer we do not know.

MR. COTTLE: That would not enter into the calculation. The calculation is determining what the price could be if the production is confined to the Calgary refinery marketing area, which would comprise 10,000 barrels a day. What the producer's cost is would not matter as to what the price would be.

THE CHAIRMAN: That is right, it would not matter in the matter of the field price. But it would matter to the producer if he was only putting through his well so little that he was paying twice as much for it that he otherwise would have to pay, would it not?

MR. COTTLE: That is quite so.

MR. FRAWLEY: That is the last thing Dr. Frey, in his memorandum, Exhibit "457" says. "Production costs by whatever method determined may have little or no effect upon price, but economic conditions especially price may be the determining factor in the cost of production." That is what you are referring to?

THE CHAIRMAN: Yes.

MR. COTTLE: My only point is, Exhibit "263", in considering the Exhibit "263", we should not attempt to be too exact about it because it is all based

upon assumed conditions.

MR. FRAWLEY: We do not want to be too exact about it because it is only a stepping stone, that is all.

MR. COMMISSIONER LIPSETT: The effect of the proposition, Mr. Frawley, seems to be this, that in order to get this Regina market the Turner Valley producers are losing the difference between $1.20 and $1.67 for all their crude. That is they lose 47 cents a barrel in order to get the Regina market.

MR. FRAWLEY: Yes, but they produce and sell a great many more barrels.

MR. COMMISSIONER LIPSETT: Yes, but has it been worked out at all as to whether they are actually losing or making by shipping to Regina?

MR. FRAWLEY: Oh well, yes. The notes I have here deal with that very fully.

MR. COMMISSIONER LIPSETT: Because it has been put to us that it is very unsound to lose 40 cents a barrel to send it further East than Regina whereas in fact it is recommended we lose 47 cents a barrel to take it as far as Regina.

MR. FRAWLEY: Well that is demonstrable here. And then, of course, there we must not lose sight of the fact if the producer got $1.67 for his crude in Turner Valley supplying Calgary, that the Calgary tank waggon would be away up, and the consumer would be paying a lot more for his gasoline. Now we say what the producer might take, something over $1.60 for his crude if he was only supplying Calgary, but we go to Exhibit "269", which is Mr.Grath's calculation, and this time using a well price

at Cut Bank of $1.10. That is a calculation to show the value of Turner Valley 48 gravity crude at Regina, which is $1.29½. Now we, therefore, see from this Exhibit, translating that into our 43 gravity crude, we see we can capture the entire Regina-Moose Jaw area of 10,000 barrels more daily, with a price of $1.20 for all the crude produced, $1.29½ for 48 gravity being $1.19½ for 43 gravity, or roughly speaking, $1.20.

Now this is really what you were referring to, Mr. Commissioner. 10,000 barrels daily at $1.60 a barrel equals $16,000.00, that is supplying Calgary only. 20,000 barrels a day at $1.20, taking both the Calgary and the Regina-Moose Jaw areas, brings in $24,000.00. So obviously then, I think we can say that we took the Regina-Moose Jaw market.

MR. COMMISSIONER LIPSETT: What are the two figures?

MR. FRAWLEY: The two figures are. If he was content with the Calgary area alone he would sell 10,000 barrels at $1.60, with a gross income of $16,000.00. But taking the Regina-Moose Jaw area as well as Calgary, he sells 20,000 barrels daily at $1.20, or $24,000.00.

MR. COTTLE: Following up that point, Mr. Commissioner, the drop in price, if we look at it in that light, from $1.60 to $1.20, which is 40 cents, is justified because it doubles the production and increases the gross revenue from $16,000.00 to $24,000.00. Now the drop in price, I think it was 47 cents to get East of Regina, is not justified because the drop in price would involve taking in less money, as the result of the drop in price, because of the small amount of market gained. It is a matter of diminishing returns.

MR. COMMISSIONER LIPSETT: In this particular case, is this the correct result of that, at 10,000 barrels a day he would be getting $16,000.00 a day for double the time?

MR. COTTLE: Double the time?

MR. COMMISSIONER LIPSETT: Yes.

MR. COTTLE: What do you mean by double the time?

MR. COMMISSIONER LIPSETT: Would the period he would get the 10,000 be exactly double?

MR. COTTLE: Because of the withdrawal being less? Yes, the amortization period would certainly be greater, supplying the 10,000 instead of supplying the 20,000.

MR. COMMISSIONER LIPSETT: Is not the correct comparison whereas he is only get $24,000.00 now in one day, he would be getting $32,000.00 in two days, and is he not losing $8000.00 by going to Regina?

MR. COTTLE: It may be that that is the case. It may be it would be good business not to supply Regina. You would have to examine the details of the producer's operations. That would mean he would.......Well, Mr. Harvie pointsout he would have to stand the interest on his money being invested and being withdrawn at a much lower rate. And what competition would be too is pretty hard to say. And whether it is actually worth while to supply 20,000 barrels a day and take in $24,000.00 as compared with 10,000 barrels a day and taking in $16,000.00 would require a great deal of consideration. To one producer it might be worth while and to another it might not. On the face of it, it would seem to me to be worth while to produce the 20,000

barrels a day.

MR. COMMISSIONER LIPSETT: It would. But take five years' period on this other thing. He would be getting for 5 years $24,000.00 a day, but taking less per day he would be getting $16,000.00 a day for 10 years, which would be a vital increase in the sum of money he would receive.

MR. COTTLE: That is on the estimate of 20,000 a day at 5 years, and there would not be any left. If they were the proportions I would say he is very unsound to want to take his oil out that rapidly if the Turner Valley field can only supply at this rate for 5 years, it certainly has no business going into Regina. But that is not the assumption when the Regina market was taken. If 20,000 barrels a day will last say for 30 years, then it would last for 60 years at 10,000 barrels a day. When you are going into the differences between those two periods you have a different problem on your hands. The interest factor which compounds comes into it very materially.

MR. FRAWLEY: Then has the interests of the buyer of gasoline to be wholly forgotten, because clearly consistent with not doing any harm to the producer we should try to get as low a tank waggon price as we can, and certainly one of the reasons we are getting a lower price here, as low as we are, is because it is going as far as Regina. Of course, if you extend that further and went ruthlessly out and lowered the price of crude to take the Winnipeg market, again in Alberta our tank waggon would be down. Then, of course, as I will point out in a minute or two, when you start to put it up again it starts to go back.

MR. COMMISSIONER LIPSETT: That is a very vital part.

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Then on the assumption that the field is going to last 19 or 20 years, it means that the consumer in Alberta today is getting a lower price with a threat of a very much increased price at the time the field works out. It is the same principle.

MR. FRAWLEY: The point you have raised is certainly a very vital one and analyzed in the whole consideration, when the Imperial went out and took Regina and worked out its posting they certainly - one of their basic considerations was that the field could stand a withdrawal at that rate. Clearly, if it was doing harm to the field it was a very short-sighted policy. It is the old point of view, shall we get our money out quickly at a higher rate or shall we take it out over a long period at a lesser rate? It certainly involves the wise production of the field. I think I can say none of the people who have come before the Commission have pointed to that as a wrongful or improvident taking from the field.

MR. COMMISSIONER LIPSETT: I started off with the thought, Mr. Frawley, of why is it not justifiable to try and go on to Winnipeg if it is justifiable to go as far as Regina. I think Mr. Cottle gave the answer there that the extra amount it would mean going into Manitoba would not justify the reduction.

MR. FRAWLEY: We have a very interesting exhibit that shows that. We have arrived at our reasoning where we have taken the Regina-Moose Jaw market: Now how much further should we go. That is the point. As it is now, having taken Regina, I mean taken Regina-Moose Jaw a certain complement of that is that the refined products go a certain distance. They go into other points, what is called

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the normal Regina territory, and that is a point where the products from the Regina-Moose Jaw area come into conflict with the products of all over the world crudes, and in this instance that is Illinois. Now the economic fringe for our crude, that being the definition of the economic fringe, is now about Portage la Prairie. A vague area there in the vicinity of Portage la Prairie. Now we know that economic fringe can only be extended by reducing the cost of the gasoline out of the Regina and Moose Jaw refineries, and reducing the cost of the gasoline - and it is gasoline which is fighting its way and not the crude - the price of gasoline must come down to extend that fringe and that in turn involves a reduction in the field price of crude, other things remaining equal of course. This brings me right down to the remarks of Dr. Brown, in Exhibit "711" starting at Page 3. I think he has worked it out in great detail.

THE CHAIRMAN: Exhibit "711"?

MR. FRAWLEY: Exhibit "711", Dr. Brown's memorandum.

THE CHAIRMAN: Where does he read that into the book?

MR. FRAWLEY: No, this is the memorandum which came after he left.

THE CHAIRMAN: Oh yes.

MR. HARVIE: It is really a summary of the evidence he gave here.

MR. FRAWLEY: Yes. It is very well expressed and there is this advantage that you have not to go outside of the Exhibit to find out everything he wants to tell us about that. Starting at Page 3. "Position of Economic Fringe East of Regina". In other words, I take it

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Dr. Brown is now exploring the possibilities of trying to gain, the advantages of trying to go East of Regina.

"	Freight per gal.
"From Regina to Portage la Prairie	4¢
"From Ft. William to Portage la Prairie	5.2¢
"From Regina to Winnipeg	4.48¢
"From Ft. William to Winnipeg	4.0¢

" This indicates a freight "differential of 1.68¢ per gallon which must be absorbed "in order to market refined products from the Regina "refinery in Winnipeg which is approximately 56 miles "East of Portage la Prairie.

" Portage la Prairie is "approximately the position of the present economic "fringe for marketing products to the East in compet-"ition with refined products coming West from Sarnia. "Since there are approximately 28 gallons of the refined "product sold per barrel of crude processed, the 1.68¢ "per gallon corresponds to about 47¢ per barrel of crude.

" In letter dated August "14, 1939, from Mr. McGrath of Imperial Oil Company to "Mr. Cottle" -

and I might say parenthetically that is Exhibit "649" -

"it was stated that approximately 500 barrels of crude "additional would be run at Regina to supply the "territory between Portage la Prairie and Winnipeg, "and approximately 1250 barrels of crude would be "required to supply the Winnipeg market.

" It therefore appears "that 1750 barrels of crude in addition to the 10,000 "barrels of crude run at Regina and Calgary by the

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"Imperial Oil Company would be run if the price of "crude were reduced 47¢ per barrel.

" The present return "from 10,000 barrels per day at $1.20 per barrel "is $12,000. The total return from marketing 11,750 "barrels at $0.73 would be only $8,577.50. This "indicates a loss of $3,422.50 per day to the crude "oil producers if they cut the price of crude $0.47 "in order to put the products from refining Turner "Valley crude into the territory between Portage la "Prairie and including the Winnipeg market."

So much for that.

" THE ECONOMIC FRINGE SOUTH OF CALGARY

" The present position "of the economic fringe based on the old freight "rates is Champion. In order to extend this "economic fringe further south about 64 miles "to Stirling it would also be necessary to "absorb a freight differential of 1.68¢ per "gallon.

" As has been indicated, "this corresponds to 47¢ per barrel of crude."

Then he deals with "The Combined Effects East and South of Trying to Extend Markets for Turner Valley crude by Cutting the Price of Crude. He says:-

" If it be estimated "that the products from approximately 1000 barrels "of crude per day could be marketed in the territory "between Champion and Stirling to the South, we have

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"an indicated increase in crude run of a total of "2,750 barrels per day made possible by a decrease "in price of $0.47 per barrel. The present return "on 10,000 barrels at $1.20 per barrel is $12,000. "The return on 12,750 barrels at $0.73 is approximately "$9,325.00. This indicates a net loss to the producers "of Turner Valley crude of $2,675.00 per day in spite "of the fact that they are producing and selling more "than 27% more crude oil.

" For these reasons it is "clear that no attempt should be made at present under "the present transportation facilities and rates to "increase the market for Turner Valley crude by cutting "the price of crude oil at Turner Valley."

He continues:

"THE PROPER PRICE FOR TURNER VALLEY CRUDE BASED ON COMPETITION WITH THE OTHER CRUDE SUPPLIES THROUGH THE WORLD AS REFLECTED IN THE PRICE OF CRUDE OIL IN MONTANA."

" <u>The Maximum Price for Turner Valley Crude.</u>

THE CHAIRMAN: Are you reading still?

MR. FRAWLEY: Yes, I am reading from Page 7.

THE CHAIRMAN: You are jumping from Page 4 to Page 7?

MR. FRAWLEY: Yes. But the paging is wrong. There is something wrong with the paging. There never was any page 5 and 6.

THE CHAIRMAN: I have 5 and 6 here.

MR. FRAWLEY: Oh, you have 5 and 6?

THE CHAIRMAN: Yes.

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MR. FRAWLEY: I am glad you did not keep that a secret from me. You could have done. I certainly have no pages 5 and 6. Well, that is dealing with the same thing. I wonder if I might start there at 2 o'clock.

(At this stage the Hearing was adjourned until 2 P.M.)

....

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

MR. FRAWLEY: Well then, I was using Dr. Brown as an authority in this question of how to arrive at the proper place for the economic line to be drawn and the proper price to be paid in Turner Valley for crude oil and I had read from his memorandum, Exhibit "711" down to the end of page 4 and now having been supplied with the original which is complete, I will continue reading from page 5 of his memorandum:

"MAXIMUM PRICE TURNER VALLEY CRUDE BASED ON
"COMPETITION WITH PRODUCTS FROM MONTANA AT
" CALGARY AND IN NORTHERN ALBERTA"

I might say that I am doing this because it very concisely says I think every word which needs to be said with respect to the determination of this economic line. He has gone to a lot of trouble and there is a lot of detail but it does say all that needs to be said.

The freight rate from Coutts to Edmonton is 4.72¢ and the freight rate from Calgary to Edmonton is 2.72¢ per gallon, a difference in freight rate to Edmonton in favor of Calgary of 2¢ per gallon. The freight rate from Coutts to Calgary in favor of Calgary 3.12¢ per gallon; the freight rate from Calgary to Coutts in favor of Coutts 3.12¢ per gallon.

"If these freight rates be averaged on an
"estimated weighted basis, an average
"freight rate in favor of Calgary for the

[illegible]

"entire province of Alberta may be obtained.

" Assume one-half of all "refined products goes north of Calgary as rep- "resented by Edmonton, and one-third of all re- "fined products go into the Calgary territory "and one-sixth go into the southern Alberta "territory as represented by Coutts. Therefore, "the weighted average freight rate in favor of "Calgary would be

"	1/2	x 2¢	=	1.00¢
"	1/3	x 3.12¢	=	1.04¢
"	1/6	x-3.12¢	=	-.52¢
"Weighted average in favor "of Calgary				1.52¢

" Again assuming 28 gallons of re- "fined product sold per barrel of crude run, this "indicates a difference of 42.6¢ per barrel of "crude. This figure makes no allowance for the "0.5¢ lower tank wagon price at Coutts. If such "allowance were made, the differential of 42.6¢ "per barrel of Turner Valley crude would be re- "duced by 14¢ to 28.6¢ per barrel of crude in "favor of Calgary over the price of $1.35 per bar- "rel f.o.b. Calgary refinery.

" It is therefore clear that "an increase in refinery price of crude oil from "$1.35 to $1.776 f.o.b. Calgary refinery would en- "able finished products from Montana to displace "Turner Valley crude from its present market

"south of Calgary and be on an equal competitive
"basis with the products from Turner Valley
"crude at Calgary with all points north.

" That is to say that
"Turner Valley crude is in danger of losing all
"of its markets even in Calgary if its price is
"$1.78 f.o.b. refinery at Calgary.

" The proper price for
"Turner Valley Crude based on competition with
"the other crude supplies through the world as
"reflected in the price of crude oil in Montana."

The maximum economic price first is discussed and then the minimum economic price for Turner Valley crude.

"The maximum price for Turner Valley crude. If
"the calculations shown in Exhibit "263" be re-
"vised or adjusted for a price of $1.10 per
"barrel for Cut Bank crude '

I might interrupt myself to say that that is what we were endeavoring to do this morning and Dr. Brown is doing that very thing here. He says:

"It is found that the competitive price for
"48° A.P.I. Turner Valley crude at Calgary as
"laid down at the refinery is $1.9289. When
"this price is adjusted for 43° A.P.I. gravity
"crude by subtracting 2¢ for each decrease in
"A.P.I. gravity, the competitive price for
"Turner Valley crude at the refinery is $1.8289.

" It therefore appears that
"direct competition from Montana crude at $1.10

"per barrel would indicate a maximum price for "Turner Valley crude at the refinery in Calgary "of $1.83, at which price the Calgary refiner "would find no advantage in running Turner "Valley crude over Montana crude.

" A previous calculation "based on competition of finished product from "Turner Valley crude as refined in Calgary and "finished product from Montana crude as refined "to the south, indicated that the maximum price "for Turner Valley crude was $1.78 at the re- "finery. This slight difference of 5¢ per barrel "is probably due entirely to the differences in "freight rates between crude oil to Calgary, and "the rate for finished products on a long haul "from Montana into the northern part of the "Province, or to the assumptions used in weight- "ing the various freight rate differentials in the "previous calculation.

" In any case it is clearly "indicated that the price of Turner Valley crude as "laid down at the refinery in Calgary must be under "$1.78 if Turner Valley crude is to be assured of "any economic market even for refineries in "Calgary.

Then finally the minimum economic price for Turner Valley crude:

"The minimum economic price for Turner Valley crude "under the present conditions and transportation "costs is that price which will put it on a com-

"petitive basis with Cut Bank Crude at Regina.
"This price is clearly set forth in Exhibit
"269 which indicates a minimum price at the
"well of $1.275 per barrel of 43° A.P.I. crude
"oil taking into account the present prices
"of 9-1/2¢ for pipeline and 2-1/2¢ for loading."

THE CHAIRMAN: One dollar what?

MR. FRAWLEY: $1.27½, 1.275, $1.27½ per barrel of 43 gravity A.P.I. crude, taking into account the present prices of 9-1/2¢ for pipeline and 2-1/2 cents for loading.

THE CHAIRMAN: That is his minimum.

MR. FRAWLEY: That is his minimum.

"As has been shown 'one more paragraph
"As has been shown any further spread in
"markets obtained by the single expedient
"of cutting the price of Turner Valley
"crude is uneconomic. It is my opinion
"that a price of $1.30 at the well for 43
"gravity Turner Valley crude is a fair price
"under present conditions that will insure
"the economic marketing of Turner Valley
"crude. In any case the price should not
"be decreased under present conditions, and
"it cannot be greatly increased without danger
"of losing its proper market."

Now that means that Dr. Brown thinks that $1.27½ will be, throwing the full 8¢ benefit from the decreased pipeline and loading charge,

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

that $1.27½ is the price that should be asked for and obtained at the well in Turner Valley for 43 gravity but he simply averages it out or rounds it out when he says it should be $1.30. Now then just going at once to Mr. LeSueur, Mr. LeSueur simply stops at $1.27½ as I understand it.

THE CHAIRMAN: I do not understand, how does he round it out to a rate of $1.30.

MR. FRAWLEY: Well-----

MR. COTTLE: I think, sir, on the basis of $1.27½ is the minimum and if that is the exact price it would also be the maximum which would keep Turner Valley crude at Regina and he gives himself some leeway there I think when he goes to $1.30.

MR. NOLAN: What he says in the transcript, if I may interrupt.

MR. FRAWLEY: Yes.

MR. NOLAN: That the fair price for 43 gravity is approximately $1.30, a few cents one way or the other is of course undeterminable.

MR. FRAWLEY: Yes, but the Chairman's question is the relationship between $1.27½ and $1.30.

THE CHAIRMAN: He may explain it, he may just say "I am guessing".

MR. FRAWLEY: That is what I was saying, he just takes $1.27½ and makes it $1.30.

MR. NOLAN: Just let me check it before I give this.

THE CHAIRMAN: I mean this 3 cents makes

some difference to some one.

MR. FRAWLEY: Oh, 3 cents is a lot I take it right now.

MR. NOLAN: You find the discussion of this, sir, in Volume 126 at page 14,100.

MR. FRAWLEY: What does he say, Mr. Nolan.

MR. NOLAN: Well he says just what I told you a moment ago but if you will look at page 14,122 in that same volume, page 14,121 really he says, would you like to read it.

MR. FRAWLEY:

"A. The price of 43 gravity Turner Valley
" crude at the well is in balanced dynamic
" competition with Cutbank crude at Regina,
" when the price in Turner Valley is $1.27½,
" based on the distribution of products
" from Regina that was used in computing
" Exhibit, I think it was Exhibit "269".
" Q. Yes?
"A. I have estimated that the Turner Valley
" producer would not lose any money per
" day if slightly less crude were run at
" Regina and the price were increased from
" $1.27½ to $1.30."

That is the explanation .

" Therefore, I believe approximately $1.30
" is a fair price.

"Q. To arrive at the $1.27½ you used the new
" pipe line rate?
"A. Yes, and the new loading rate."

And then whoever is questioning says "I want to explore that for a moment," I think I had better read it:

"Just give your mechanics of that', and that is
"What do you mean when you say you used the
"new pipe line rate"

On Exhibit "269" and his answer was

"A. On Exhibit "269", I think that is right,
"on Exhibit "269" it is shown that the value
"of one barrel of 45 gravity Turner Valley
"crude at Regina in competition with Cut-
"bank crude at $1.10 is $1.96-7/10."

$1.96-7/10, that is right, Exhibit "269".

"Q. Yes?
"A. And based on the old loading and pipe
" line charge that $1.96-7/10 at Regina
" is reduced to $1.23½ at the well."

That is also shown in Exhibit "269".

" The old loading charge was 5 cents and
" the old pipeage and gathering charge
" was 15 cents. The new loading charge
" is 2½ cents and the pipeage and gather-
" ing is 9½ cents. So that there is an 8
" cent reduction in the cost required to
" get one barrel of Turner Valley crude

"from the field in Turner Valley to Regina.
"Therefore, the value of one barrel of 45
"gravity Turner Valley crude at the well
"will be $1.31½. Reducing that gravity from
"45 to 43 will reduce it 4 cents and will
"make it $1.27½.
"Q. In other words, you accept the formula
"for arriving at the value of the crude at the
"well that was prepared by Mr. McGrath in
"Exhibit "269"?
"A. Yes, based on the present operations at
"Regina and the market being supplied, I bel-
"ieve that to be a correct estimate of the
"relative values of those crudes.
"Q. So that Mr. McGrath, having used the then
"rate of 15 cents for the pipe line and 5 cents
"loading charge, and these rates now being re-
"spectively 9½ cents and 2½ cents, and always
"keeping to his formula and his method of
"arriving at the price, then, of course, you
"arrive at a price higher?
"A. Yes. Then in addition to that----
"Q. I want to talk to you about that 8 cents."

And I do not suppose we need to get into that, so that when Dr. Brown----

THE CHAIRMAN: Mr. Frawley what do you take is meant by the word "dynamic equilibrium", what is "dynamic equilibrium", we have heard a lot about it, what is its meaning.

MR. FRAWLEY: I think it means an equilibrium that is constantly shifting and capable of moving as a result of the application of forces of various kinds in the world of competition. There is nothing static as I understand it.

MR. COTTLE: I think that is the right. The economists use it as the opposite of "static".

MR. FRAWLEY: Now going back to my own notes and that about completes my reading of what Dr. Brown says about it, completes what I have personally to say about it except we are 2 cents apart; we either take Mr. LeSueur or we take Dr. Brown. Dr. Brown says it should be, that \$1.30 is a fair price that can be paid; that really means you would be increasing the price of crude 3 cents on the strength of Dr. Brown's evidence and 8 cents as a result of this pipeline saving, that is where it seems to leave us.

MR. HARVIE: You would run less to Regina by doing that.

MR. FRAWLEY: Yes, he says we would run a few barrels less at Regina but he says in his opinion in the passage I read to you, that it would be, still be fair, and I suppose one has to make up one's mind and I have made up my mind and my respectful submission is that the increase is not more than 8 cents, that he takes the \$1.20 as we now have it and subject to what I will say later as to that 8 cents that we will increase the field price by 8 cents and arrive at \$1.28 and not \$1.30; my only reason for saying that is, as Dr. Brown

points out, himself, that it would mean that you would run a little less at Regina, the Turner Valley producer would not lose any money per day, if slightly less crude were run at Regina and the price were increased from $1.27½ to $1.30.

THE CHAIRMAN: Why do you advocate the 8 cents then.

MR. FRAWLEY: If I thought that Dr. Brown, if I thought putting the field price of $1.30 was going to do the greatest good to the greatest number, and that is my aim, if I thought that putting the field price of $1.30 would not result or would not require the Imperial to increase its tank waggon at Calgary by any fraction of a cent, I would say forthwith $1.30. I would like to give the crude producer all that can possibly be given to him.

THE CHAIRMAN: As I understand Dr. Brown, he is not suggesting that it may have that effect, just that it does not go so far.

MR. FRAWLEY: That is right and I take it he certainly means that the Calgary tank waggons stay where they are.

THE CHAIRMAN: Oh yes.

MR. COTTLE: I do not think he was concerned with that in the discussion.

MR. FRAWLEY: Well $1.30 would give the Imperial a slightly increased laid-down cost on crude at the Calgary refinery.

MR. COTTLE: Yes.

MR. FRAWLEY: Of course and as it is, as a matter of fact that $1.28 they have 2½ cents, the Calgary refinery has 2½ cents increase laid down cost on crude, which either has to be absorbed or passed on in the tank waggon and we will have to wait and see what they do about that.

I would like to come back to that, Mr. Chairman, after giving it a little more precise thought as to what precisely the $1.30 means. If there is any necessary disturbance in the Calgary tank waggon, I mean that $1.30 means 2 cents more than any of us have anticipated, for the prodcuers, and if there is no necessary disturbance in the Calgary tank waggon price I would say at once $1.30 and he says that that is not going to mean any less money to the producer because, although slightly less crude will be run he will get a slightly higher price per barrel and he says his position will be as good as it was at $1.30. It will not be any worse off, so he says definitely "I therefore believe approximately $1.30 is a fair price". Now I do not like to subscribe to $1.28 if $1.30 will send the crude just as far and not do any harm and obviously do some good to the Turner Valley producer.

MAJOR LIPSETT: Now are you saying anything at all, Mr. Frawley, on the other two points of view, the one was whether the price should remain as it is and the benefit be given to the consumer and secondly as to the effect of this increase that you-----

MR. FRAWLEY: Yes, I am coming to that right now.

MAJOR LIPSETT: So far as regards the competitors.

MR. HARVIE: Dr. Brown just on that matter of returns, Mr. Chairman, he stated, made a statement to the effect that 3½ cents increase in the price of crude would have the effect of reducing the rate of return to the Imperial by 1%.

MR. FRAWLEY: Where is that.

MR. HARVIE: I have it in my notes and I will just get it.

MAJOR LIPSETT: That is the rate of return on capital.

MR. HARVIE: Yes, there he does state that an increase of 3½ cents would make that difference on the rate of return so it is only proper to assume that you cannot reduce it in this other way without affecting the Calgary picture, that is at page 14,236, Volume 127.

MR. FRAWLEY: He is discussing the rate of return, yes, well at page 14,235:

"Q. And so to go a further step, if the price
" of crude should not be reduced, it would
" follow that any reduction in the price of
" gasoline which would have the effect of
" giving a lesser return to the refineries
" is something which should not be recomm-
" ended, in your view?

"A. At the immediate present.

"Q. Yes?

"A. Yes. May I go a little further with that,
" I am assuming the price for crude f.o.b.
" the refinery at $1.35.

"Q. Yes?

"A. And if there has been a change in that
" f.o.b. refinery price for crude, that
" change would be reflected within those
" limits in the price of the finished
" products, or in a wider market for Turner
" Valley crude, as I tried to indicate this
" morning.

"Q. Yes. Now the reality is what '

Now this is the Chairman I am pretty sure, yes.

" Now the reality is what, the price to the
" refinery door today----

" MR. FRAWLEY: Is less.

"Q. THE CHAIRMAN: Is less than $1.35?

" MR. FRAWLEY: Yes, 5½ cents less.

"A. 5½ cents in Calgary.

" MR. FRAWLEY: Yes.

"Q. THE CHAIRMAN: Now where does that
" bring you, Doctor?

"A. Well the 5½ cents decrease in the price
" of crude would have increased the earnings
" from the 1938 operation from 12.8% to,
" probably to about 13, well probably to
" about 14 or 14.2%.

"Q. Yes?

"A. Probably. Now that is my personal opinion.

MR. NOLAN: My reference to that is Volume 127, at page 14,224 where he makes the statement that a difference of 3½ cents per barrel on crude at the refinery would reduce the return on invested capital by about 1%.

MR. FRAWLEY: Oh yes, but that is just when he is discussing the relationship between the rate of return and percent of earnings, that is quite right, that is quite right. Now he started off by saying----

THE CHAIRMAN: Does it follow if it reduces the rate of return on capital to that extent, is it to be assumed that the rate of return on capital is all right to begin with and Dr. Brown seems to be of the opinion that it is. Then is it going to be passed on to the consumer.

MR. FRAWLEY: Now just let me see what the Doctor says, sir. Now Mr. Commissioner Lipsett at the bottom of page 14,225:

"MR. COMMISSIONER LIPSETT: Would that be
"equivalent, Doctor, to saying that if you
"take a cent off the price of gasoline that
"would take about 6½% off your figure?

"A. Approximately".

THE CHAIRMAN: 6½%.

MR. FRAWLEY: 6½% or 1 cent off the price.

[illegible]

this is the gasoline now. This is before he comes to the crude situation.

THE CHAIRMAN: Yes.

MR. FRAWLEY:

"Q. .15 is about $6\frac{1}{2}$ times-----

"A. If you take $1\frac{1}{2}$¢ you take 10% off. 1¢
" you take off about $6\frac{1}{2}$, 6.7%.

"Q A decrease in return of 6.7%?

"Q. THE CHAIRMAN: $1\frac{1}{2}$¢ less for gasoline.

"A. Means a difference of 10% on the return of
" invested capital on that estimate, or my
" estimated operation for Imperial in 1940.

" Q. And you said 1¢ just to save calculating,
" 1¢ less for gasoline -----

"A. Is about 6.7% in the return on invested
" capital. These are prices for all gasoline,
" the average price for all gasoline.

" MR. FRAWLEY: At the refinery?

"A. At the refinery.

"Q. Nothing to do with tank wagon at all, of
" course?

"A. Well only insofar as the tank wagon effects
" the price at the refinery. Would you like that
" reflected on the crude."

He leaves that and then he says:

"Would you like that reflected on the crude.

"Q. Yes, what it means reflected in crude prices.

"A. An increase in crude prices at the refinery
" of about $3\frac{1}{2}$¢ - is that the figure I had this
" noon?

"Q. 3½¢.

"A. Of about 3½¢ would decrease the return on
" invested capital about 1%, assuming all
" other factors to remain constant.
" MR. COMMISSIONER LIPSETT: That is 3½¢ per
" barrel?

"A. Per barrel of crude yes sir, at the refinery.

"Q. And that would reduce ----

"A. And that would reduce the return on invested
" capital by about 1%.
" MR. FRAWLEY: Which means that if the
" price of crude was reduced 3½¢ per barrel
" and the f.o.b. price of gasoline remaining
" as they are, that would mean a decrease in
" the rate of return of 1%?

"A. Assuming that the operation is as I have
" estimated for 1940.

"Q. Using for a basis always your estimate of
" the 1940 Imperial operation?

"A. That is right."

MR. HARVIE: I think that is just actually the reverse.

MR. FRAWLEY: Yes, it would mean an increase in the rate of return of 1%.

(Page 16,941 follows)

MR. FRAWLEY: Now, that means that if the price of crude - because certain things inevitably follow - if the price of crude goes up at the refinery door that has to be reflected, always assuming that the rate of return is right and the spread is right; I mean the refinery costs are right, there must be an increase in the tank waggon price.

THE CHAIRMAN: I want to be clear as to what your final submission is. As I understand it, if we were to say it should be $1.30; it should go to the producer; it is quite different from saying $1.28, having regard to the fact that all companies are asking for a rate of return on their invested capital. You take the same witness' evidence and he says in effect, as I recall it, that the return on capital at present is not out of line. Well, is it not then reasonable if that be accepted, to say that increasing the price from $1.28 to $1.30 means an increase to the public in the price of gasoline?

MR. FRAWLEY: Yes. Frankly, I am not prepared to face any increase in the tank waggon price of gasoline. That being so, and I am also assuming if it goes to $1.28 now - we will get to that a little later - that going to $1.28 there is an increase of 2½ cents in the laid down cost of crude at Calgary. That is correct, is it not?

MR. COTTLE: Yes.

MR. FRAWLEY: I do not know what the Imperial Oil's intentions are with respect to that. It was never mentioned. I have been assuming that will be absorbed and it will not be reflected in the tank waggon price and on that assumption I am suggesting $1.28, and I think my considered submission will be that it should not go beyond

$1.28 for fear that it might result in something else. Even if it resulted in a higher price for crude for the producer it might equally result in a higher tank waggon price for the consumer. I am prepared to rest at $1.28 and I think we can confidently expect that there will be no increase in the tank waggon price.

THE CHAIRMAN: At $1.28 there is still an increase to the Calgary refinery of 2½ cents?

MR. FRAWLEY: That is quite right because of the fact we increase the thing 8 cents, not only the 5½ cents which they are concerned with but the other 2½ cents that they are not concerned with because they do not load at the Calgary refinery.

MR. COMMISSIONER LIESETT: Then that works out if that was put in force there is either a reduction in the rate of return on the capital or there must be a somewhat higher price to the public,

MR. FRAWLEY: That is right. That must be so because there is 2½ cents which I mam certainly assuming is to be absorbed in the refinery.

MR. HARVIE: Mr. Chairman, are they not entirely two different matters; the basis on which the fair field price for crude is arrived at on world competition and whether that is $1.28 or $1.20 that should be the figure that is set in Turner Valley. Once that figure is set then the industry is entitled to a return on capital. It takes that figure and has to work back to the tank waggon in order to realize on it. I do not think there is necessarily any direct relation. Or it may be Mr. Frawley is justified in suggesting with the 8 cent increase in the price of crude that

[illegible]

there will be no increase in the tank waggon. It may not be the case. I do not think there is anything in the evidence to justify that view.

MR. NOLAN: My impression is if you change the posted field price one of two things happens. Either you increase the price of the refined product that is manufactured or you reduce the profit to the manufacturer.

MR. COMMISSIONER LIPSETT: There is no alternative that I see. Of course, Mr. Frawley and Mr. Harvie are rather sorting out Dr. Brown's ideas, which are not quite consistent in a way. In one place he says that this increase is justifiable-----

MR. HARVIE: I do not think in any place in Dr. Brown's evidence has he touched on what is the fair Calgary tank waggon. He is dealing with it purely on the value to the refiner at Calgary.

MR. COMMISSIONER LIPSETT: Has he not fixed the tank waggon price at Calgary by inference. If it is necessary to get the rate of return which he says is fair.

MR. HARVIE: Oh, yes.

MR. COMMISSIONER LIPSETT: I think that follows.

MR. FRAWLEY: Let us get down to realities. On the 3rd of July----I am anticipating what I was going to say. Not altogether, but a little. On the 2nd of July the price of crude oil was $1.20 and the cost of getting it into the Calgary refinery was 15 cents. So it was $1.35. On the 3rd of July a change was made and the price of crude oil, let us say, went up. The Utilities Board reduced the price 5½ cents, the carriage charge 5½ cents. That was immediately, let us suppose, put on the price of crude. The price of crude would go to $1.28 because of the extra 2½ cents that this Commission reduced the loading charge. That

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would make the Calgary refiner's laid in cost then $2\frac{1}{2}$ cents more. Not 8 cents. But just $2\frac{1}{2}$ cents more. Now, to what extent does the $2\frac{1}{2}$ cents increase in the price of crude require an increase in the tank waggon price. I am very frank in saying that this Commission might, of course, find otherwise, but my submission is there was no justification and there is no justification to-day for an increase in the tank waggon price.

MR. COMMISSIONER LIPSETT: It does not make the price to the Calgary refiners $2\frac{1}{2}$ cents more. It makes it $5\frac{1}{2}$ cents less instead of 8 cents less, is that not it?

MR. FRAWLEY: It makes the price of transportation to the refinery 8 cents less.

MR. COTTLE: You are making this assumption that the changes were made on July 3rd. If that had been added on to the price of crude the fellow at Calgary pays $2\frac{1}{2}$ cents more and the fellow at Regina will be in the same position as he was before, if what you are assuming took place.

MR. FRAWLEY: Yes, if on the 3rd of July the price had automatically gone on the price of crude the laid down cost would have been the same at the Regina refinery but the Calgary refinery's out of pocket would be $2\frac{1}{2}$ cents more.

MR. COMMISSIONER LIPSETT: Based on the $1.28?

MR. FRAWLEY: Yes.

THE CHAIRMAN: I must say after hearing Mr. LeSueur upon the subject of passing on the 8 cents to the producer, there is not the slightest suggestion that that involved or implied an increase in the price of gasoline to the consumer.

MR. FRAWLEY: That is true and that is my excuse, if there be any excuse necessary, for not having made it abundantly clear on the record that the Imperial Oil would leave the tank waggon where it was. We were aware of the extra $2\frac{1}{2}$ cents cost.

THE CHAIRMAN: I am not saying what might happen in the future. There was no contract that the field price was going to stay fixed nor that the price to the public was going to remain static. That we have been consistently told depends on world conditions. But I would say that if not the express, the clear implication from the evidence is that that is going to the producer because that has to do with a reduction in the transportation costs and he is entitled to it. But certainly not at an added cost to the consumer at the moment.

MR. FRAWLEY: That is true.

THE CHAIRMAN: Because of this pipe line reduction-----

MR. FRAWLEY: As a matter of fact, when the discussion first emerged with respect to the passing on of the $5\frac{1}{2}$ cents to the consumer - forgetting about the producer - we were told many times and in many places it was too small. It was something that would only cause a lot of confusion in the service station to increase the tank waggon price by whatever it was, 2/10 of a cent or something of that sort. So I think we must wait till there is a larger movement in the laid down cost at the refinery, something more than $2\frac{1}{2}$ cents, before there is any change in the tank waggon. That is one of the things that the refiner must be prepared to take up in the ebb and flow of his business. Now, how much more the

difference should be we will not say at the moment, before he is justified in raising the tank waggon price. And I must say too, Mr. Chairman, nothing was said to the contrary and that is why one drew these inferences. Now, before I go on to what should be done with the pipe line saving-----

THE CHAIRMAN: On the other hand, don't you think Dr. Brown's suggestion of the proper price, at least in one place, the suggestion of the proper pride being $1.30 is somewhat uncertain and vague?

MR. FRAWLEY: Oh yes, I think that is so.

THE CHAIRMAN: And one that-----

MR. FRAWLEY: As Mr. Cottle points out, what Dr. Brown was doing, he took Exhibit "269", which works out exactly at $1.29½, being the value of 48 gravity crude.

MR. COTTLE: It was $1.19½ for 43 and the Imperial made it $1.20.

MR. FRAWLEY: Yes, when they might have made it $1.19½, to be exact. I think you are quite right that Dr. Brown has just in a very general way and, perhaps, not thinking that his evidence might be taken as the exact answer and as the exact measure for a recommendation of this Commission, as to what the field price of crude should be.

THE CHAIRMAN: It strikes me at the moment, subject, of course, always to what you might say, that if the field price was said to properly be $1.30 right now that then there might be some good reason for the refinery increasing the price to the public.

MR. FRAWLEY: Yes, because you would have 2 cents and 2½ cents, or 4½ cents then.

THE CHAIRMAN: I am not saying that there is or

[illegible]

there is not good reason for them doing it at this moment. I say the implication from Mr. LeSueur's evidence is that he has no intention of doing it under present conditions.

MR. FRAWLEY: I am sure he would have said so here rather than leave us under any misapprehension at all in regard to the tank waggon price.

MR. PLOTKINS: Have you taken into consideration the fact that the Imperial's field price to the purchasers is now a cent and a half more down to 8/10 of a cent, in the past few months, more than the official field price. So that the refinery is not now paying \$1.20 but \$1.12½ downwards, because it varies from month to month. It is the weighted average and we have been told it works out from half a cent to better than 1½ cents.

MR. FRAWLEY: That is some mechanics that the Commission has not been told about.

MR. COTTLE: That is because of the fact that the average gravity is not 43, it is something over 43.

MR. PLOTKINS: It has the effect of increasing our costs at the refinery.

MR. NOLAN: Only to the extent that the gravity is increased.

MR. FRAWLEY: Before leaving the question of a field price and having accepted------

THE CHAIRMAN: So that Mr. Harvie will not misunderstand me. We have no confirmed conclusions at this time. I am just saying that the present impression, Mr. Harvie, is not that you and any other refiner should not do what you like. I say my impression of Mr. LeSueur's evidence as to what his company intends to do is------

MR. HARVIE: I appreciate that-----

THE CHAIRMAN: That it does not involve anybody else.

MR. HARVIE: . My impression was that Mr. LeSueur, when he was speaking of that figure of $1.28 he was looking at it purely to keep the equilibrium in field prices, and had no idea at all and was not discussing the marketing situation or the rate of return or anything else. I just do not know that it is fair to Mr. LeSueur, but however that is the Commission's business.

TYE CHAIRMAN: He is talking about passing on something. You might just get his evidence, Mr. Frawley.

MR. FRAWLEY: Yes.

THE CHAIRMAN: He is saying in his opinion the 8 cents should be passed on to the producer.

MR.HARVIE: In order to keep the proper equilibrium in price of crude I submit.

THE CHAIRMAN: Well that is.....

MR. NOLAN: He said in effect this. Do you want to know?

THE CHAIRMAN: Yes.

MR.NOLAN: The 8 cents will go to the producer because it is part of your structure in determining your crude price. You could not possibly give the 8 cents to the consumer and carry out a proper competitive scheme of fixing a field price on a proper basis.

MR. FRAWLEY: Volume 128.

THE CHAIRMAN: You observed what Mr. Nolan has just read, Mr. Frawley?

MR. FRAWLEY: Yes.

THE CHAIRMAN: He is talking about what cannot be done to advantage the consumer. Certainly there is the time one would expect Mr. LeSueur to have said it

would disadvantage the consumer if he passes this on to the producer. I do not think there is any difficulty about that.

MR. COTTLE: He also said that, Sir, a few days after voluntarily reducing the tank waggon price half a cent on 3 Star and 1 cent on Esso; which he did not in any way relate to the price of crude.

MR. NOLAN: The reference, my Lord, is Volume 128 at Page 14,281. Again in that same volume 128 at Page 14,319. That is when you brought up the subject again with Mr. LeSueur.

THE CHAIRMAN: Yes. What did he say then, Mr. Nolan? May I interrupt you, Mr. Frawley?

MR. FRAWLEY: Yes.

THE CHAIRMAN: I mean you have raised a question which was not a question in my mind until right now.

MR. FRAWLEY: Personally I think this is a good way to go along. Everybody is getting in on my omnibus. I think it is right to go along and then it is finished.

THE CHAIRMAN: Yes, and then we feel we can take liberties with our own Counsel, whose whole object in life is to help us.

MR. NOLAN: And we are trying to help too.

THE CHAIRMAN: Quite so. But I say we feel we can take liberties with Mr. Frawley where we might hesitate to interrupt Counsel making representations for his client.

MR. NOLAN: In this second reference at Page 14,318, he says:-

"Q THE CHAIRMAN: You say if it is going to
" be on a competitive basis that you have to take your
" transportation costs into account as between the
" refiner and producer?
"A Yes. If you do not take a competitive basis you
" are completely at sea.
"Q MR. FRAWLEY: But you have to arrive at
" that competitive basis for the purpose of protecting
" the producer?
"A Not protecting him but for the purpose of establishing
" a price which he should properly receive.
" THE CHAIRMAN: That is your proper price
" equilibrium as I understand it. As I understand
" the witness you cannot possibly give this to the
" consumer and keep on a proper competitive basis,
" carry out a proper competitive scheme of fixing
" your field price, at least a competitive scheme
" on a proper basis.
"A That is right."

THE CHAIRMAN: May I ask you, Mr. Nolan, - certainly there is no suggestion in your presentation to us and do you think there could be any conceivable implication when Mr. LeSueur was advocating this increase of 8 cents to the producer that in any wise involved an increase to the consumer because of it?

MR. NOLAN: No, it never occurred to me, Sir. I do not know whether it occurred to him or not. Mr. Frawley just points to me this other reference that I made to you on Page 14,280.

MR. FRAWLEY: The same volume.

MR. NOLAN: Mr. LeSueur is referring

there to price competition. "His estimate" meaning Dr. Brown's, says Mr. LeSueur, "as I understand it is worked out into decimals at \$1.19½ for Turner Valley crude, with conditions existing prior to July, or adding the 8 cents, \$1.27½, with a possible price of \$1.30 if the market is somewhat curtailed. Of course, our figures are \$1.20 and \$1.28 with the present market. We see no reason why that price is not a reasonable price, permitting of expansion in the Valley, steady development in the Valley and we feel that that price is a fair one today and that the limit of the market and the price should not be disturbed unless there is some real reason for it."

MR. FRAWLEY: I think that is what he had in mind when he said the present market. That is the expression used by people.

MR. HARVIE: That is the market for crude, surely?

MR. FRAWLEY: With the present tank waggon market.

MR. NOLAN: No, it is the crude market he is referring to there.

MR. FRAWLEY: He says "Our prices are that with the present market."

MR. HARVIE: Which is the Regina and Calgary refining area.

MR. COTTLE: 2½ cents a barrel, Mr. Chairman, in terms of gasoline is 1/10 of a cent a gallon. That is the relationship.

THE CHAIRMAN: Yes. Now, it was after Mr. LeSueur's evidence was given, wasn't it, that there was a reduction in price announced to us by Mr. Nolan for his clients?

MR. FRAWLEY: What we have just read-----

MR. NOLAN: It was four days after.

MR. FRAWLEY: The 25th of October was the date of the cut, and what I have just asked Mr. Nolan to read was given on the 21st of October.

MR. NOLAN: Do you want Dr. Brown's evidence on what should happen to the 8 cents now, or did you get that?

MR. FRAWLEY: You mean as to whether it should be passed on to the producer or not?

MR. NOLAN: Yes.

MR. FRAWLEY: Yes. We have no controversy about that.

THE CHAIRMAN: Are you going to give it to us later. If not I will take a note of it.

MR. FRAWLEY: What Dr. Brown says about the passing on of the saving?

THE CHAIRMAN: Yes. If you are not coming to it we will take a note of where it is. Where is it, Mr. Nolan?

MR. NOLAN: I am checking these before giving them to you. It is so much safer.

MR. FRAWLEY: He really has said that in the memorandum, Exhibit "711" that I read.

MR. NOLAN: His computation uses that pipe line saving.

MR. FRAWLEY: He says this on page 8 of Exhibit "711": "This price is clearly set forth in Exhibit "269", which indicates a minimum price at the well of $1.275 per barrel of 43 gravity A. P. I. crude oil, taking into account the present prices of 9½ cents for pipe line and 2½ cents for loading." Now, he has made his calculations, because

Exhibit "269" does not say $1.27½. Exhibit "269" says $1.19½. So that he has put the two together. Let me read it again. "This price is clearly set forth in Exhibit "269"." Now, Exhibit "269" shows a price of $1.29½ at the well for 48 gravity or $1.19½ for 43 gravity, our gravity. Now then, reading from his Exhibit. "This price is clearly set forth in Exhibit "269", which indicates a minimum price at the well of $1.275 per barrel of 43 gravity A. P. I. crude oil, taking into account the present prices of 9½ cents for pipe line and 2½ cents for loading." In other words, he has made his own calculation, using Exhibit "269" but using the new pipe line rate.

THE CHAIRMAN: He has not, I take it, in mind----- he says that is what the field price, the minimum field price for crude should be.

MR. FRAWLEY: For crude.

THE CHAIRMAN: He has not concerned himself with what the public is going to pay for the refined article.

MR. FRAWLEY: No. Mr. Nolan was not looking for that for you.

MR. NOLAN: In Volume 126, at page 14,123 "Mr. FRAWLEY: Then I suggest to you, Dr. Brown, that one very proper thing to do with that saving in the pipe line rate is to send it on through the refinery into the tank waggon? A That is what will be done if the price of crude is not changed. But I think that that puts the price of crude out of competitive balance." That is all he said.

MR. FRAWLEY: He rejects my suggestion that it should go into the tank waggon. Clearly we can put it down definitely that Dr. Brown's opinion is the saving in the

pipe line rate charges should go to the price of crude.

THE CHAIRMAN: That is right. Now, you have raised a doubt as to whether or not this passing on is going to do something different again, namely, make a change as against the consumer.

MR. FRAWLEY: If it is having another result-----

THE CHAIRMAN: I had no doubt of that until to-day.

MR. FRAWLEY: I had not any either. If I raised it I raised it thanks surely to my friend Mr. Harvie.

THE CHAIRMAN: Well, I do not know.

MR. HARVIE: It appears to me to be so apparent.

MR. NOLAN: Whether it gets to the consumer or not, is it not quite clear that the profit of the refiner must be reduced by reason of this increased cost of the raw material?

MR. FRAWLEY: Infinitesimally, yes. That is the answer.

MR. NOLAN: $2\frac{1}{2}$ cents a barrel.

MR. FRAWLEY: That is $2\frac{1}{2}$ cents-----

MR. HARVIE: It means 5/7 of 1% on the return, which is a real factor. After all, it is the rate of return we are interested in.

MR. COTTLE: On the Imperial operation it would be $50,000.00 increase in cost, or after taking off the income taxes, would be about $37,000.00 or $38,000.00, reduction in the earnings.

MR. FRAWLEY: If it is left unsatisfactorily I think we should know. I think we should not be left in this way. If there is nothing we can do and we cannot read anything more out of the evidence I suppose it might not be

wrong to ask Mr. Nolan to inform the Commission after he takes instructions.

THE CHAIRMAN: I think so. I would have had no doubt at all after listening to Mr. LeSueur, taking the broad view of the matter, he says: "There is going to be some loss here but we are going ahead." I cannot see how he makes that statement now and a few days later you on behalf of your company announce a reduction in price to the consumer. I would not have thought anything about it. I would not have thought it was open to question were it not for the fact that the discussion we have had to-day raised some doubt. Not what the oil companies should do now, but what meaning Mr. LeSueur meant us to get from his evidence. I had no doubt as to the meaning attached to his evidence. But if there be a doubt I think we would welcome having that doubt resolved.

MR. NOLAN: Quite so. Let us see if there is any such doubt.

MR. FRAWLEY: I think it is important in our further discussion, to see if we are facing a tank waggon increase.

THE CHAIRMAN: Yes, I think so.

MR. NOLAN: Yes, clearly.

THE CHAIRMAN: You, perhaps, can let us know in the morning if it be possible to get a reply.

MR. NOLAN: The time element is always against me. It is five o'clock there now.

THE CHAIRMAN: The only reason I suggest the morning at all is that it might have some reflection on what Mr. Frawley may have to say.

MR. NOLAN: I can get word back in time for Mr. Frawley in the morning. We have been doing that for months.

THE CHAIRMAN: If, for example, we should think well of Mr. LeSucur's suggested $1.28, we do not want to be confused or misled as to some other effect it might have, which we did not think he intended.

MR. NOLAN: Quite so.

MR. FRAWLEY: Now before going on to the question of pipe line savings, I am just going to pause for a moment, just to digress purely to say this-----

THE CHAIRMAN: Just excuse me one minute. I have Volume 126, page 14,123. Who was that, Mr. Nolan. I think you read that, but I did not make a note of who was speaking.

MR. FRAWLEY: Dr. Brown.

MR. HARVIE: Where he gave the information that the 8 cents should go to the producer?

THE CHAIRMAN: Yes.

MR. FRAWLEY: I find it difficult to resist the temptation at this stage to draw a little picture of what full, free and open play of competitive forces does when used as a yardstick for measuring the price of crude in Turner Valley. Having in mind all I have said and all that has been quoted to you, Mr. Chairman, let us suppose Mr. LeSueur builds his pipe line to Regina. The first result will be that the transportation cost to Regina will come down. It is now 53 cents, but let us just for the purposes of this short illustration say that it comes down 25 cents. The field price necessarily goes up 25 cents. The price of gasoline necessarily goes up 1 cent. The importation of Montana gasoline is immediately encouraged and finally the production in Turner Valley goes down, when Montana gasoline comes in. Now, that, to me, just a poor, ordinary layman, it seems to me to be the rather absurd result of the application of the full, free and open play of the

competitive forces. But that seems to be what it results in. But my friends ask "Why bother about it?" Because I am accepting it. I am accepting it because it seems to be inevitable. Everybody seems to think it has to be. It is just another application of what Mr. Commissioner Lipsett said this morning, supposing that Montana and Wyoming and East Texas and those fields in the United States fell into the bowels of the earth to-morrow and there was not any more. But we still had lots of it in Turner Valley, and more and more every day. Still we would pay a lot more for our crude and a lot more for our gasoline, just because down there in anouther couhtry they ran short of crude oil.

MR. COMMISSIONER LIPSETT: I certainly think we would be very interested in hearing both sides of any such suggestion, not assuming for the moment that it is accepted that there should be an increase in the price of crude.

MR. FRAWLEY: If that situation came about, you mean. Well, Mr. Chairman, the only alternative is to arrive at the field price of crude on a cost plus basis. And I do not subscribe to that.

THE CHAIRMAN: Following your illustration and supposing a pipe line were put through and all these things happened. Who gains?

MR. FRAWLEY: Surely, that is it. It seems to completely box itself.

MR. HARVIE: The Saskatchewan consumer.

MR. FRAWLEY: No, the Saskatchewan consumers pay the same price.

MR. FRAWLEY: The price of crude goes up; if there is one thing we have learned it is that if you go out and select Regina as the focal point, that is the price at Regina, and when you arrive back you deduct the prices ---

MR. PLOTKINS: The minute you have a pipe line at Regina you will reach further east and then the price is what you get further East.

MR. COTTLE: It takes 47 cents to get to Winnipeg, Mr. Plotkins, and there is no advantage whatever in absorbing the difference between 25 and 47 to get to Winnipeg because there is not enough volume to make it worth while.

MR. PLOTKINS: True, but the minute you have a pipe-line in there and the refiner has a lower cost of 27 cents, which allows them to go further East.

MR. FRAWLEY: That just puts the price up to the Turner Valley producer.

MR. PLOTKINS: The producer will not have anything to say. It is the marketer who will decide and he will go out into the field and see what he finds, how much more products he can market and then he will set his price at Turner Valley on the new set of conditions and that will inevitably increase the market, the minute there is an increase in price and transportation costs come down.

MAJOR LIPSETT: Mr. Frawley, what Mr. Plotkins says is worth considering and what he is putting is this, as I understand it, it takes the reduction of 47 cents in the price of crude to put you further East than Regina. Now at the 47 cents you are giving some for extra profit but taking 25 cents in the reduced transportation, it gives

you 22 cents still of a reduction necessary to get further East. Now it might be, according to Mr. Plotkins' suggestion, that to take in Winnipeg, that you might be able to do that by reducing the price in Turner Valley by 22 cents and that that might then become the new field price based on Winnipeg, distinct from Regina.

MR. FRAWLEY: Oh, yes.

THE CHAIRMAN: In short, he says, you get a brand new economic fringe.

MR. FRAWLEY: Yes, what we were talking about this morning. You get your refined products pushed further East, that is true, that may be true, you get a little more crude sold perhaps.

MR. COTTLE: I think the evidence will bear me out when I say though, that you cannot get enough additional volume of crude by decreasing prices to justify it on account of the higher cost of transportation and the differential that is against you every time you move by freight. For instance Portage La Prairie to Winnipeg is only 56 miles and yet it takes 47 cents a barrel on the total production to put it into Winnipeg and then you have only increased your volume 10% on your total throughput, so therefore, if you had a reduction in the Regina laid down costs of 25 cents rather than leave that as a reduction forcing gasoline further East, you are better off as a producer to increase your price 25 cents and leave your economic line where it is and that is the logical thing which would happen because of the thin gallonage and the very high freight differential between Regina and Winnipeg.

MAJOR LIPSETT: Have you worked out, whether

that, how that would work out if you assumed that the reduction of 25 cents in the transportation charges, the reduction of 25 cents in the transportation charges by reason of the pipe line.

MR. COTTLE: That still could be worked out. Whether or not it would be worth while if you could get the Winnipeg market by reducing only 22 cents instead of 47.

MAJOR LIPSETT: Yes.

MR. COTTLE: We could work it out and I think the result would be it would not be worthwhile and then you have to compare that by the possibility of increasing your Regina laid down costs by 25 cents. At the moment the laid down cost at Regina cannot be increased beyond the figures shown in Exhibit "269" because at a price higher or at a laid down cost higher than that, Montana crude will take the market and that is at the moment the determining factor at Regina; even today it might be worthwhile to increase the Turner Valley field price so as to increase the Regina market and give up some of the market which we now have; that might be the sensible thing to do but that cannot be dome because if we increase the field price beyond a certain point Montana will steal the Regina market.

MAJOR LIPSETT: Yes, but I suppose if you have the 25 cent reduction in the transportation charges to Regina you might be able to say that Calgary was the deciding point and not Regina.

MR. COTTLE: Quite because what Mr. Frawley has put to you involves an increase in the tank wagon price in Calgary. Now you cannot increase the tank wagon price in Calgary indefinitely, as Dr. Brown has made clear in Exhibit "711"

because you will soon get to the point where you will have an invasion of Alberta of refined products from Montana and that may then be the determining factor and not Regina.

MAJOR LIPSETT: Yes, but when Calgary becomes the deciding factor it would have to go up to this $1.69.

MR. COTTLE: That is right, it would have to go approximately that high before Calgary would be the determining factor.

MAJOR LIPSETT: Before Calgary would be the storm center there would have to be 29 cents or 28 cents, 27 cents extra added on to the price of crude.

MR. COTTLE: That is right; in order for Calgary, the Calgary refining area to be the determining factor it would mean that the pipe line rate or the transportation rate from Calgary to Regina would have to be practically nil.

MAJOR LIPSETT: Yes, it would have to get to $1.67 or $1.68 or $1.69 before Calgary came into the picture as a disturbing factor.

MR. COTTLE: That is right.

MR. PLOTKINS: Mr. Commissioner, I want to point out something which is happening right now, which will give you a clear conception of what the problems involved are. At the present time, and I think it has already been consummated, there is a freight rate making Calgary the base for refined products clear to Winnipeg. Now when you have a pipe line to Regina the railways are not going to lose that business. They are immediately going to go back to the Calgary center and say, "All right, we are prepared now", in fact I think it is already here, "We are prepared now to give you a freight

rate clear to Winnipeg on refined products" and you have a different state of economic factors to face and that is exactly what is going to happen and probably has happened already.

MR. FRAWLEY: Well probably gazing into the crystal like that does not help very much. It seems to me the obvious result of doing what Dr. Brown says must be done in arriving at the competitive price for crude.

MR. COTTLE: But with a little speculation in dynamic economics by the way.

MR. FRAWLEY: Whatever it is. Now I want to ask and answer the question what to do with the pipe line saving. That will only take a minute because we have discussed it in large part in the last half hour.

As I have stated, in reviewing the subject of the field price, the determining factor in price is the competitive value of the crude at a point outside the province.

The price was as low as we found it before the reduction in the pipe line rate, only because it had to be low enough to be laid down in Regina at a cost to meet competition from other crudes. That competitive cost at Regina was, before the pipe line reduction, $1.93 and 2/10th cents per barrel for 43 gravity crude which permitted a field price of $1.20 in Turner Valley after deducting freight 53.2¢ loading 5¢ and pipe line 5¢.

The competitive value at Regina was not altered in any way by the pipe line reductions and hence these reductions have had the effect of lowering the obstacles which the Turner Valley crude has to overcome in

meeting competition from other crudes in the Saskatchewan market.

This lowering of the competitive obstacles, in turn, increases the field value of the crude with the result that, whereas $1.20 crude would formerly lay down in Regina for $1.93 and 2/10ths cents, Turner Valley crude at $1.28 will now meet the same competition.

Accordingly, we cannot escape the conclusion that the field price should, by reason of the reductions in the pipe line and loading rates, be increased from $1.20 to $1.28.

I will have a further submission to make with respect to the passing on of the 8¢ reduction in pipeline and loading charges, and I would like to defer that statement until towards the end of my remarks.

MAJOR LIPSETT: Well, Mr. Frawley, have you considered this suggested increase based on Regina from the point of view of the small refineries in Saskatchewan, that may presently be importing Montana crude.

MR. FRAWLEY: That may be now importing Montana crude?

MAJOR LIPSETT: Yes, from this point of view that if you could send your crude oil into Saskatchewan at 8 cents a barrel cheaper than at present, you might eliminate the importation of Montana crude by these small refineries that exist in Saskatchewan.

MR. FRAWLEY: Yes, I do not know what the volume is. Well, yes, we do know something about the volume because we have taken pains to calculate what it would be, to calculate what would be saved from the 3rd of July to date.

MAJOR LIPSETT: Do not these smaller refineries use Montana crude?

MR. FRAWLEY: We really do not know, sir, what Saskatchewan refineries are now using Montana crude. We only know of one, that gentleman Georgescue that came up here, he is apparently still using it at Bishopric.

MR. COTTLE: And that refinery at Bishopric, by the way, uses Montana crude, apart from the price consideration, for a particular purpose, that is to get fuel oil to run the sodium sulphate plant.

MAJOR LIPSETT: Speaking generally, do the Saskatchewan small refineries, do they refine Turner Valley crude?

MR. FRAWLEY: Oh, yes.

MR. COTTLE: Generally, yes, and any who do not have particular reasons of their own for not using it.

MR. FRAWLEY: Oh, yes, we have displace it now almost throughout the whole province of Saskatchewan.

MAJOR LIPSETT: So in Saskatchewan there is no prospect of ousting any more Montana crude even if you give the 8 cent reduction to Saskatchewan.

MR. COTTLE: No, I do not think there is enough to be ousted in Saskatchewan to bother taking the price down.

MR. FRAWLEY: Now I pass, Mr. Chairman, to the question of field contracts, and I first want to quote, and I may say in connection with field contracts, that in my opinion it is not left in a very satisfactory way ---

MAJOR LIPSETT: May I interrupt you again, Mr. Frawley?

MR. FRAWLEY: Yes.

MAJOR LIPSETT: Are you going to deal at all with the position of the other refineries who are not getting the benefit of the pipe line reduction?

MR. FRAWLEY: Deal with them as to what should happen to them?

THE CHAIRMAN: If the field price is increased.

MR. FRAWLEY: Well I am suggesting that the field price be increased and that will certainly increase their laid in cost but if, if the inevitable result of the application of the competitive system to a determination of the price of crude results in increasing the price, then Mr. Mayland will have to pay more for his crude in Turner Valley. I do not see any possible escape. He thought that there was some advantage when he went down there to establish his refinery and indeed there was an obvious advantage, his absorption plant was there and it seemed to be convenient to bring the balance of his operation to the absorption plant and perhaps he thought he was saving the pipe line charges, that he was going to escape the pipe line charges, when he went into Turner Valley. Now he may be victimized in some small way.

MAJOR LIPSETT: Do you not think there should be some consideration given to his equities, because that is what it results in?

MR. FRAWLEY: It results plainly in his paying more. It certainly increases the price of his crude.

THE CHAIRMAN: You say, I suppose, with the competitive system in full swing, they do not care about equities. It is only some Statutory Board like the Conservation Board that is charged with that responsibility.

MR. FRAWLEY: Yes. Mr. Mahaffy came here, it is quite true, and made a submission that that 8 cents should not be passed on; that the field price should not be increased. Well one would expect him to advance that contention and to try to find some support for it but about all he said was that it should remain in the refinery, which is rather untenable; not go one way or the other but just stay where it accidentally got lodged.

MAJOR LIPSETT: I was thinking of it really from the point of view which the Chairman put to you, where there is conservation, of course, there will be no doubt that you would suggest equities should be protected.

MR. FRAWLEY: Oh, quite.

MAJOR LIPSETT: But are we not doing this, or have we not done this on somewhat the same point of view, once the company, the pipe line company was made a Public Utility, does not the same reasoning arise that equities ought to be prominently before us because this is not competition in the new pipe line, it is a Public Utility.

MR. FRAWLEY: Well the pipe line is a public Utility but all we are doing is, you see the Board reduced the pipe line rate, they were not concerned at all with what the next step was; neither was this Commission when they recommended last spring ---

THE CHAIRMAN: They had no evidence on which to base any next step.

MR. FRAWLEY: No, that is true, they had nothing at all and now we are seeking, we are now examining into and dissecting the competitive price and we find how it is made up and we just, unless we reject it altogether, we have to keep

to its application.

MAJOR LIPSETT: Well do we not, we now come to deciding or recommending, where that reduction is to go to.

MR. FRAWLEY: Yes.

MAJOR LIPSETT: And you are saying now that when we get to that point, we should forget all about these equities and let competition govern everything. May we not be equally concerned with doing equity in our recommending where this reduction should go to, as we were, in recommending that equities be looked after when there is conservation?

MR. FRAWLEY: Well first of all I think you have to determine the direction in which it goes and if we think that it will be doing violence to the whole situation by endeavoring to arbitrarily hold the price at $1.20 and putting it on, through the refinery, to the tank wagon price, which would be possible, - there is nothing impossible about it, - but that would be, I am told and I agree, interfering with the free play of competition, that is true, that is true, that in itself is no crime, as you will hear me say before I am finished with this ---

MAJOR LIPSETT: No, but I am only thinking aloud and trying to be helpful and not critical.

MR. FRAWLEY: Yes, I understand.

MAJOR LIPSETT: But I am still thinking, are there not other elements entering into this besides competition and we should not turn around and blindly say that competition should decide this, we having held on different grounds, or recommended a pipe line rate from a public utility point of view and eliminated competition more or less.,

MR. FRAWLEY: Well, you took it as you found it, it was monopolistic and you recommended the obvious thing, making it a public utility. I frankly do not know what can be done unless we, we arbitrarily consider that the field price of crude should be increased for all people using the pipe line and something, some other sort of price be fixed, and then we have the producers, are we not back to where we were this morning, would we not have to have a pool to determine the price at which they would sell to Mayland and the price at which they would sell to Royalite.

MAJOR LIPSETT: Now under competition we might be striking a blow at competition if we made it impossible for the competitors to carry on by reason of this 8 cents a barrel, he might be in a worse position than we put him into.

MR. COTTLE: I wonder if I may interject a thought at this stage, when Turner Valley crude was found the price was, of course, higher and there was not enough crude to supply the market; when it was first found and there were refineries operating in Coutts; now the result of the finding of more and more crude oil in Turner Valley has been the lowering and the lowering of the price with the result that the operations of the refinery at Coutts is now uneconomical and competitively out of the question. Now the reduction of the price of crude in Turner Valley scrapped practically those plants in Coutts. Now that is another serious problem in equity. Now if you consider the equities of the plants in Coutts being scrapped you would have had to prevent any crude oil in any quantity being produced in Turner Valley; that is the same problem, just going one step further and that would be the result of considering an equity of that kind in determining what the price of crude

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oil should be to find its way into world markets; that is what it does.

MAJOR LIPSETT: That was unrestricted competition, and that takes the system to this logical conclusion, the competitive system to this logical conclusion, - apart from this regulation, the pipe line rate would have remained at 15 cents and competition did not force it down below that.

MR. HARVIE: We do not know that there would not have been other competition.

MAJOR LIPSETT: Well, we do not know but that was actually the position.

MR. NOLAN: That pipe line rate has been coming down and down from $37\frac{1}{2}$ cents, all the way down to 15.

MAJOR LIPSETT: And might come lower?

MR. NOLAN: Yes.

MAJOR LIPSETT: I was not putting it from that point of view but in fact at the time that this Commission started it was 15 cents.

MR. NOLAN: And only one pipe line.

MAJOR LIPSETT: And for different reasons, public reasons, it was made a public utility and it was brought down to $5\frac{1}{2}$ cents, not by reason of competition, and is it fair to then superimpose the competitive system on that? It existed solely as a competitive system at Coutts in the example you gave.

MR. COTTLE: Well, the railways are not competitive systems either but rates are established for the railways and yet the railway rate from Calgary to Regina is one of the determining factors in arriving at this price, just the same as the pipe line is. Now they are both

[illegible]

public utilities you might say at the moment, both the railways and the rate resulting from it and the pipe line and the rate resulting from it, they are not in different categories at all, and making the pipe line a public utility, it seems to me, in no way affects the competitive system which applies to the rest of the industry as we find it today.

THE CHAIRMAN: Well, Mr. Frawley, before you start again I think we will take a few minutes.

(An adjournment of 5 minutes was here taken.)

MR. FRAWLEY: Dealing with the question of field contracts, Mr. Chairman, I want to begin by quoting Mr. Nolan and Mr. Harvie when they made their statements last May.

On the 9th of May Mr. Nolan made this statement, Volume 56 ---

THE CHAIRMAN: Now Mr. Frawley, so that we will have no misunderstanding as we go along, your advocacy is for $1.28 as the field price to be recommended, which means 8 cents more to the producer of 43 gravity crude, is that right?

MR. FRAWLEY: No, it means that I have, that I am accepting ----

THE CHAIRMAN: Now subject to anything else you may say as to whether that may be deflected, by accepting the view that from the competitive standpoint it should go to the producer rather than to the consumer ----

MR. FRAWLEY: Precisely, that is as I am anxious to make plain, that I accept the principle that the

savings in the pipe line and the loading charges should be reflected in the price of crude rather than in the tank wagon price of gasoline.

THE CHAIRMAN: Yes.

MR. FRAWLEY: Yes.

THE CHAIRMAN: And you abandon any thought of $1.30?

MR. FRAWLEY: Yes, I do.

THE CHAIRMAN: At the time you said you would like to come back to it but you say you think on reflection $1.28 should be the price?

MR. FRAWLEY: That is so, that is so.

THE CHAIRMAN: Now you have made some observations and I do want to understand you as you go along, you made some observations with regard to the seemingly absurd situation resulting from competition having full swing?

MR. FRAWLEY: Yes.

THE CHAIRMAN: Have you anything to suggest as an alternative?

MR. FRAWLEY: Not with respect to the price of crude. I just gave you that to just indicate that I did not, I did not, - well I just have to accept, I just have to accept the situation with regard to the making, the way in which the field price of crude is made and has been made and no alternative has been suggested to us as to any other way it should be made unless it be the cost of crude production plus, which I say is left wholly unsatisfactory and in quite an impossible position, so I have to accept it, but I am going to say so many things about competition later that I do not want to be taken as subscribing or as having become

a disciple of that school completely, for its unbridled application all through this petroleum industry.

THE CHAIRMAN: You say so far as the price of crude is concerned that is it?

MR. FRAWLEY: Yes.

THE CHAIRMAN: Then one more thing before you go to your next subject, we have been discussing here the effects of the pipe line and so on, we have had evidence from Mr. LeSueur that the time is ripe now, - as to whether or not his Company will ever do anything about it is something for them to decide at some other time, - but we have heard Mr. Campbell about pipe lines, - I mean do you come back to it later or do you say anything about pipe line to us at all?

MR. FRAWLEY: No, I do not.

THE CHAIRMAN: We have heard much about pipe lines. People in this country must be somewhat agog about it or there would not be so much in the newspapers about it. Have you anything to say about it on the evidence before us?

MR. FRAWLEY: No, I think, Mr. Chairman, without wanting to dim anybody's enthusiasms for the pipe line, doesn't it simply amount to this, Mr. Campbell's pipe line is one thing, Mr. LeSueur's is another; Mr. Campbell's is one from here to the head of the Great Lakes with a view of getting into the Ontario market.

MR. FRAWLEY: That is something that Mr. Campbell, if he did not say it in so many words, he doubtless said by implication. You have to await the finding of another oilfield. I do not say necessarily at all. It only has to await a certain production. However I do not suppose that matters. There is no magic in us having two or three fields, if we have enough out of one field, that is the pipe line. I think he told us frankly we had to get 60,000 barrels per day. I am inclined to think that we just simply say "Well now, until that stage has been reached there is nothing of any moment to report, as having any important bearing on transportation costs." Then, of course, we are getting Dr. Camsell's report and that may come into the Commission and they may have the benefit of that report before its report is offered. I will not have it in time to comment on it.

That is Mr. Campbell's project.

THE CHAIRMAN: Before you leave a consideration of it haven't you got to think about this hiatus?

MR. FRAWLEY: In between?

THE CHAIRMAN: Yes? We had Dr. Brown upon that subject, quite unsatisfactorily it struck me at the time, and perhaps you will make it clear as to whether you are going to have over-production to reach the maximum at which the pipe line would be justified. Whether the engineers' estimates will ever serve to lead to that result? I spent some time with Dr. Brown on that merry-go-round "If you have not got enough production, then the pipe line is not justified". In order to get enough production you have got to drill and produce more than you can possibly be sure of selling, having regard to the allowables.

That must follow. There is seemingly a vicious hiatus in there. We have had so much about pipe line, I do not know but what we might find it our bounden duty to say something about it. If so, we would like your views.

MR. FRAWLEY: I have not any real submission to make upon it. I would like to place before you three or four statements I have labelled "The In-between Period," and I will place them before you for what they are worth. As far as any submission is concerned, I think we will all have to wait. We seem to agree we cannot go to the head of the Lakes until we get 60,000 barrels per day. Let us not worry about whether we get any more structures or not. Let us think that Turner Valley will produce it. If Turner Valley will produce it, as well as look after our Western Canadian daily requirements, then Turner Valley has it. It does not need to be any other particular field, Jumping Pound or Steveville or any other place.

THE CHAIRMAN: You say 60,000 barrels a day over and above what?

MR. FRAWLEY: Not 60,000, but 60,000 over and above the 20,000 for Calgary's requirements. Well, Calgary is 10,000. When we speak of 20,000, that is the whole Western Canadian market. The pipe line would service Moose Jaw, Regina and Brandon and other small refineries probably. So that the figure we have to shoot at first, I take it, is about 50,000 barrels per day, or even 40,000. I think so. 40,000 barrels per day over and above the Western Canadian requirements. I think that has been the generally accepted figure.

THE CHAIRMAN: That is 60,000.

MR. NOLAN: The witness said

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39,000 at Port Arthur.

MR. FRAWLEY: That would be 60,000. That is 40,000 over our Western Canadian requirements, speaking in fairly round figures. We have to have that production before we can have a pipe line to the head of the Lakes. Now, until we get that then we have not anything else to think about. We have all sorts of corolllaries and complements with that, when that day comes. Lower pipe line rates, higher prices for crude, if my little sketch is in any way sound. Higher prices of gasoline. Or if I am quite wrong and Mr. Plotkins is right, we will have lower prices for crude and so on. But I am inclined to think, and I say so very deferentially, that the Commission is going to have such a whole lot of things that are closeer to the actuality than the day when we are producing 60,000 barrels. I cannot relate it particularly to anything else that you have to make a recommendation upon. That is my difficulty. That is Mr. Campbell's pipe line. I think it was quite right to put him on the stand to say what he had to say about it.

THE CHAIRMAN: Transportation has a bearing upon the costs in other branches of the industry?

MR. FRAWLEY: But that is transportation some time hence. It is not going to help us very much today in the price of crude or the price of refined products.

THE CHAIRMAN: Whether it touches every branch of the industry or not, it touches some branch. We know the costs of transportation by pipe line from Turner Valley have had an effect, a probable effect on the price of crude. Now here is something that is bothering me. Supposing Turner Valley was capable of producing that 60,000 barrels a day. Could produce it and had sufficient reserves

which would indicate continued production of 60,000 barrels a day over a period of time that would amortize the investment. You have to have that in mind too.

MR. FRAWLEY: Yes, you have to have all of that.

THE CHAIRMAN: Yes, all of that. Now how do you work up to that. Is it practical? How do you work up to it?

MR. FRAWLEY: To get the 60,000?

THE CHAIRMAN: Yes, and in the meantime the wells in existence, making allowance for depletion from age, could perhaps produce more than they are allowed to sell.

MR. FRAWLEY: They can produce now more than they are allowed to sell. I think that is generally accepted.

THE CHAIRMAN: If they are not allowed to sell it what happens to it? How are you going to get up to the 60,000? You are producing 20,000. Now you have 40,000 more to find. It is suggested that the engineers' estimates are not good enough. You have to see the production.

MR. FRAWLEY: You have to drill and cap.

THE CHAIRMAN: You have to have a hole there. Supposing on the evidence we have heard, supposing we were producing 60,000 barrels tomorrow morning.

MR. FRAWLEY: Yes?

THE CHAIRMAN: Well, what would we do with it?

MR. FRAWLEY: And we do not have a pipe

line to the head of the Lakes.

THE CHAIRMAN: Yes? We are told you cannot hope for a pipe line until you first have got the oil in your hand so to speak?

MR. FRAWLEY: Of course, Mr. Campbell takes exception to that, to the extreme application of the rule. He says if it is reasonably in sight that investors will put the money in. But you have to have 60,000 barrels capable of being brought up above ground in one day. Probably something that is running in your mind is what is running in my mind, and that is what happens in between to the small well producers.

THE CHAIRMAN: Yes. I spent some time with Dr. Brown on that and I did not get very far. I want what you have to say about it, because either this is a grand scheme or it is a futility.

MR. FRAWLEY: I know. My feeling about that - and I say it with great respect - is that it does not seem to be directed to anything particular that we have to worry about. It seems to me it is off by itself. I can talk about it. I do not know whether these are the things you have been thinking about. I wrote down here five things that I have called "This In-between Period". But it does not seem to point to anything and that is why I cannot imagine any place where I could work it into any complete submission of the kind I am making. Anyway, production continues to increase. That goes on. Production continues to increase. The rateable withdrawal per well goes down. That seems to be also sound, because of pro-ration. Revenue per well goes down. Then there comes reduced transportation costs by pipe line and then sales of crude increase by

reason of the capture of more extended markets through the effect of the lower transportztion costs, and/or lower field prices as warranted by the increased volume. I think those are statements of facts, of prospective facts that will come about as time goes on. My difficulty is, and perhaps it is just what you are wondering about, Mr. Chairman, is what will happen the small producer who is limited by 40 acres. The 40 acre wells. We have heard it said, and it is not the kind of thing you like to have said and have broadcast all over the country, that there is not any place for the 40 acre company in Turner Valley. There just is not any place for him, because he will be pinched out before the large quantity of production is arrived at which will warrant the construction of a pipe line. But who knows? Who am I to say he will be pinched out? It all depends on a variety of things. It depends on the orders of the Conservation Board. They might let him go down to a certain point and say "Here this man is going out of existence. We are not going to permit him to go down to that point. We will establish a certain minimum", and perhaps using discrimination in a very broad sense, they will deal a little differently with the large producer. They will deal a little more unfairly, may I say, with the large producer so as to maintain the small producer. All these things can be done. I think the Conservation Board at this stage will have quite a responsible duty to perform, which I trust they will be able to discharge in fairness to the small producer without being unduly unfair to the large producer. If you want to theorize about it it would seem the small companies are going to be pinched out in the process of waiting for the large production,

because I agree that as new wells come in the rateable withdrawal goes down per well, and the revenue per well must go down; all with the hope that the grand day will come when the oil can be going through that pipe line, when the large production is reached and they will have so much production that they will be able to take a somewhat lower price. But not a price so low as to be of itself the motive power to move the oil. But that with the reduced transportation rates, the general situation of the producer will be very much better. That must be why oil is being sought in Alberta. Surely that must be the fundamental and basic consideration. The time will come when we will get these larger markets, but only when we have a sufficiently large amount of crude to warrant an investment in the ideal method of transportation, the pipe line. Now I suggest those statements I am making must be so. They must be sound. If persons want to speculate about them they can very easily get themselves into a state of mind that would suggest that there seems to be a general theory about bringing to the surface of the ground hundreds of thousands of barrels of oil. Of course, that won't be done.

THE CHAIRMAN: Just drill holes?

MR. FRAWLEY: Drill the holes and keep the production in reserve. It seems to be a good answer. Nobody suggests that the oil should come to the surface. I am right about that I think. But you must determine the reserves and there is so much speculation about drilling in a limestone field that you must do something more than have your engineer's opinion and mark down "That is my oil," you have to spend $165,000.00

to go down there and prove out what your potential is, and what your recovery is. But what you can tell the Lieutenant-Governor-in-Council, what you can recommend about it at the moment, I do not know. I would like very much to make a helpful submission to you about what you can or should do about this question of the pipe line transportation. But I did think, perhaps wrongly, that it was a side-matter or a collateral matter that might be reported on just for itself. At the moment it did not appear to bear very closely on the continuous story that we have to tell from the well to the pump. That is how it strikes me, Mr. Chairman.

THE CHAIRMAN: Assuming that is all you have to say about that, what about the pipe line in general? I wonder if His Honour and his advisers are not interested in any attempt to be made to get pipe lines either to the Lakes or to Regina?

MR. FRAWLEY: His Honour and his advisers are certainly interested in wider markets for Turner Valley crude, consistent with the proper welfare of the producer. Like we ourselves. The Lieutenant-Governor himself is interested in one barrel out of every ten that comes to the surface out of his lease. He is interested in anything striving always to better the industry; to get further and better markets consistent with not requiring the producer to take a price which is absurdly low.

THE CHAIRMAN: All right. The evidence would impel the conclusion, as I understand you, that we have an economic fringe under existing conditions?

MR. FRAWLEY: Yes.

THE CHAIRMAN: All right. Under existing

conditions it would be folly to try and go further, if Dr. Brown's view is to be accepted?

MR. FRAWLEY: At the sole expense of the producer, that is right.

THE CHAIRMAN: Yes. It is plain foolishness. Now since the cry is for wider markets I am asking an exploration of the evidence that will permit of going further, if it is economically sound so to do, by any other means.

MR. FRAWLEY: Yes.

THE CHAIRMAN: You have said what you have to say about the Great Lakes. I am saying next "Well then, what about Regina?" Supposing it were demonstrated that this pipe line to Regina costs so much, and it effects a certain result. Should we not say "Well, while that is your situation today, and there is your economic fringe today, the doing of this creates a wholly different position," and then should we not so report? The doing of this or that or anything else?

MR. FRAWLEY: Yes, it seems......

THE CHAIRMAN: It surely has a bearing on each and every problem put before us. Whether or not the evidence is sufficiently satisfactory to do anything about it is another matter.

MR. FRAWLEY: Of course, if you accepted this statement of mine as to what would happen if the pipe line were built, and it were carried for half the present cost - well frankly I am interested in the welfare of the producer but I do not like to contemplate an increase in the tank wagoon price, because a pipe line is built to Regina. If I am forced into that.......

THE CHAIRMAN: You say that a lowering in the cost of transportation today will, in your view, disadvantage the consumer?

MR. FRAWLEY: Yes. That is certainly so. That would seem to be the effect of a rigorous application of this competitive law. It would certainly make the consumer in Calgary pay more for his gasoline. He would be astounded. He would never understand it, that is all. Mr. Producer might say "Never you mind, Mr. Concumer, I have been benefitted." And there you are. The whole economy would not be advantaged.

THE CHAIRMAN: I understand you to say from the standpoint of the consumer at any rate?

MR. FRAWLEY: Yes, at least.

THE CHAIRMAN: He is disadvantaged to have a pipe line to Regina?

MR. FRAWLEY: : Yes. Now I hear what you say and the very sound of it seems to be, it seems to be wrong. It must be wrong. But it is just right, I think,

MR. COMMISSIONER LIPSETT: Is it just right, or is that conclusive, unless you are abandoning now, for the sake of this $1.28 price which you are recommending, your original suggestion of a marketing authority of some sort that could act as a pool and keep two separate prices. I take it you are not abandoning that?

MR. FRAWLEY: No, I am not abandoning that.

MR. COMMISSIONER LIPSETT: Might not that be the limit......

MR. FRAWLEY: There is little for you to hang your hat on with regard to a marketing board. But

you certainly can - well it is obvious if you think well of the marketing plan you can recommend it regardless of what a mere witness has said, and there is machinery that can be put to use for it.

MR. COMMISSIONER LIPSETT: You are rather putting it up to us, as I see it, that we should recommend a particular competitive system, the natural effect of which would be to increase the price of gasoline in this Province to the Alberta consumer.

MR. FRAWLEY: Yes, because even what I am doing - let us be consistent about it - even in recommending that the 8 cents be passed on to the producer. It is just fortunate for the consumer it is only 8 cents because if the Commission had said to the Royalite Oil Company last Spring "This 20 cents, 15 and 5, is just complete nonsense and it has to be cut down to 5 cents," let us say for the whole operation, carriage and loading.

MR. NOLAN: Do not even say it.

MR. FRAWLEY: Then where would we be? Then we would have 15 cents passed on to the producer and probably we would already have had a reflection of that in the tank waggon. Poor consumers.

MR. COMMISSIONER LIPSETT: It seems to me in regard to the $2\frac{1}{2}$¢ increase in Calgary, while it may not at the moment add that on to the consumer, and I interpret Mr. LeSueur's evidence that it will not, is there any reason for assuming that it won't prevent a corresponding reduction at some future time; that if they cut their expenses down by $2\frac{1}{2}$¢ a barrel that they will say "Oh well, we gave that already. We won't pass it on now," and in fact the consumer will be the one who will suffer.

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MR. FRAWLEY: It won't be overlooked, I imagine. The consumer will be told or the people acting for the consumer, seeking answers for the consumer, will be told that "You must remember we absorbed the 2½ cents."

THE CHAIRMAN: And that might be a good answer. The refinery must function.

MR. FRAWLEY: Yes. It is just as sure as tomorrow is coming that he is going to be 2½¢ out in his laid-down cost if the crude price goes to 28 cents.

MR. COMMISSIONER LIPSETT: Then assuming he should be fairly dealt with on his rate of return, it does in fact follow that this 28 cents is now going to come out of the pocket of the consumer?

MR. FRAWLEY: Sooner or later yes, because the next time Mr. Nolan brings his client before a Royal Commission investigating their costs, that 2½ cents will be very prominent.

THE CHAIRMAN: You are not suggesting he is going to come soon are you?

MR. FRAWLEY: No. I cannot conceive of strong enough language to answer that question.

MR. NOLAN: I can.

MR. FRAWLEY: It is well to explore all these things.

THE CHAIRMAN: Well I think we will think about it a little overnight perhaps. I have this feeling that if anything has been before the public mind in connection with the oil it has been this business of extended markets and more pipe lines. To the extent that

The Province of Alberta

IN THE MATTER OF THE PUBLIC INQUIRIES ACT

—and—

IN THE MATTER OF a Commission, dated the 12th day of October, A.D. 1938, to inquire into matters connected with Petroleum and Petroleum Products

Commissioners:

The Honourable MR. JUSTICE McGILLIVRAY
(Chairman)

—and—

L. R. LIPSETT, ESQ.

Session:

CALGARY, Alberta DECEMBER 19th, 1939

VOLUME 152

FINAL ARGUMENT

10.30 A. M. Session
19th December, 1939.

MR. FRAWLEY: Mr. Chairman and Mr. Commissioner, when we rose last night we had entered upon a discussion of the consequences which would be attendant upon the construction of a pipe line to Regina, using as our guide the consequences which have attended or which are expected to attend the reduction in the pipe line rate from Turner Valley to Calgary.

It is agreed by everyone that the 8 cent saving should go in the direction of the producer, that it is just automatic, that is the way it has been put to us in this Commission, so I ventured to suggest yesterday that if, if a pipe line were built to Regina or for that matter if the Canadian Pacific Railway and the Canadian National Railway were kind enough to cut the present freight rate to Winnipeg, that that 25 cent saving would automatically, I insist, go to the field price of crude.

Now that seemed to be a strange sort of consequence and we were all endeavoring to find the answer yesterday. I took the trouble last night to read what Mr. LeSueur said to the Commission when he told us of the feasibility of building a pipe line to Regina and as a result of reading what Mr. LeSueur says I am just more confused than ever because Mr. LeSueur does not intend to pass on the saving, all to the producer at all; notwithstanding what we have been told about what the full, free play of the competitive forces do, those competitive forces just put it on the price of crude because as I understood yesterday and it is all very logical and simple, the price at Regina is $1.92 because-the value of crude from Turner Valley is

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$1.92 at Regina, because at that price it displaces Montana crude. It is in dynamic equilibrium there with Montana crude, so says Dr. Frey and Dr. Brown, everybody who knows about these things, so they say just simply make a deduction, simply deduct from that $1.92 the obstacles, as Mr. Cottle calls them, the obstacles, a very good expression, between Regina and Turner Valley and the obstacles between Regina and Turner Valley are the freight rates and the pipe line rate. So you deduct them and you arrive automatically at your field price, so if the deductions are less, the field price is more.

Now but Mr. LeSueur when he talked to this Commission about building the pipe line or the possibility of building a pipe line on the 23rd of October you will find it ---

THE CHAIRMAN: That is his reasoning with respect to the reduction in the existing pipe line.

MR. NOLAN: No, no.

MR. FRAWLEY: No, no, this is, no, no, he has told us about that, that goes to the producer, the 8 cent saving goes to the producer and he has passed from that, he may not even have got to it, ---

THE CHAIRMAN: You say he adopts the view that to keep this dynamic equilibrium and to not interfere with the true workings of the competitive system that if there is a saving in pipe line transportation between Turner Valley and Calgary of 8 cents it will go, - whatever it may be, - it should go to the producer?

MR. FRAWLEY: Yes, no question about that at all, that is quite what Mr. LeSueur says and we start with that; that is what Mr. LeSueur says about that particular saving.

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THE CHAIRMAN: Yes, and in that respect he is in accord with the others of whom you have spoken?

MR. FRAWLEY: Quite.

THE CHAIRMAN: Dr. Brown and Dr. Frey.

MR. FRAWLEY: Yes, and now what does he say when he begins to discuss the savings which he thinks will be attendant upon the construction of a pipe line, - and let me first say, he says, "that is the next step", I will read, I think it will be well with a view to endeavoring to understand this very difficult thing, I will read what he does say, it begins in Volume 129, the transcript of the 23rd of October at Page 14,346 and at the bottom of Page 14,345 Mr. Commissioner Lipsett was discussing with him the possibility of more than one price and the setting up of a pool so that the posted price, the whole price need not go down to the edge, the margin at Winnipeg. You understand what I mean there and this is his answer after Mr. Commissioner Lipsett puts it to him, what his thought was about that, he said:

"A Mr. Commissioner, I feel that the only sound way is
" to follow the present principles in vogue and that
" following sound practice, possibly the next real
" step in helping Turner Valley is the pipeline to
" Regina; that would be practically the next step
" if it were decided upon and would not be running
" against your sound principles on a competitive basis;
" it would be more or less in accord with sound
" principles,'

and note

' because it would possibly reduce your costs from
" here to Regina'

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so far so good and then he says:

'and naturally spread your market out.

"Q Now that pipe line would take in the British American
" Refinery, and the Imperial?
"A You would have that supply and you would perhaps, you
" have shown you have enough oil for that market today.
"Q For those two refineries?
"A Yes, and that is sound, that is the next sound step
" I think. Now the railways did meet us very materially.
"Q Up to 270 miles?
"A Yes. You have to consider the railway situation and
" I do not think anybody wants to hurt the railway if
" they meet us in a reasonable way.
"Q And your idea then would be, the first step would be
" to contemplate the possibility of a pipeline to
" Regina?
"A That to my mind is the first practical step.
"Q Now assuming that, that would of course spread the
" market somewhat probably because of the reduction
" in the pipeline charge?
"A Quite.
"Q And presuming then Turner Valley would get the market?
"A That would be the expectation.
"Q Now then with that help, perhaps you would go a little
" further and discuss then the further possibility ---
"A I doubt if it would serve any purpose to discuss
" further possibilities until we see what results would
" come from that step when you take it. Then you
" could discuss the further possibilities because you
" cannot tell at the moment where Illinois is going

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" to stabilize at and you cannot tell where that is
" going to take you right at the moment.
"Q No, but assuming that is 20 cents a barrel off, I do
" not know what it would be, but take a figure of
" 20 cents a barrel, that presumably would send it
" further East by reason of that reduction in the
" transportation charge?
"A Quite.
"Q Then if you got 20 cents or 40 cents, whatever you
" like, off the price of the crude for that market
" East of Portage la Prairie fringe, would that not
" be satisfactory business from the point of view of
" the producer and a fair thing to ask the two
" refineries to do, if it is feasible?
"A I doubt it. I think your first step is, if your
" pipeline to Regina were found feasible and could be
" put through on a sound basis, I think that is the
" first step and when that is done and by the time
" you have your market and so on, then it is time to
" consider the next step because there are to my mind
" very heavy difficulties in getting beyond certain
" markets.
"Q I take it the goal of your suggestion, the ultimate
" goal would be the Winnipeg market?
"A I think the pipeline would give us the Winnipeg
" market, that is off-hand. I do not want to state
" it decidedly but speaking generally and in the
" general perspective, I think it would probably give
" us the Winnipeg market.
"Q A pipeline to Regina?
"A Yes. You get your marginal factor."

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and so on.

Now I think I need read no more of that. It goes on but it does not vary, Mr. LeSueur says again on Page 14,349, he repeats:

"I think the pipeline to Regina today is a feasible
" proposition.",

and so on.

Now Mr. LeSueur is telling the Commission if and when the pipe line is built to Regina it is not going to go automatically back like the 8 cents to the producer. I put it to you, Mr. Chairman, that Mr. LeSueur then is interfering immediately here, - now perhaps well, perhaps ill, - but is not the point at the moment, he is interfering with what we have been told was something which happened automatically, the competitive forces established the value. You simply make deductions from that. Now what does Mr. LeSueur propose to do and can he do it, can he do it? He says, "Oh, I would just have more in my refinery, that is all.", whatever the figure is, 20 cents a barrel, "is a refinery saving and then I will take that and push the products East to Winnipeg." Well now, can he do that at all? Can he commence to do it? There are other refineries in Regina, there is the Consumer's Co-operative Refinery in Regina and while Mr. LeSueur would be endeavoring to take his 20 cents a barrel and use that to push the refined products to Regina, I mean to Winnipeg, the Consumer's Co-operative and perhaps the British American Oil Company if they did not see the same as Mr. LeSueur at all would be just stealing the Regina market from Mr. LeSueur because the Consumer's Co-operative would have the same 20 cents saving and they might say to themselves, " Well we will seize this

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splendid opportunity and thanks very much, Imperial Oil, we will seize this opportunity to take the Regina market while Mr. LeSueur is going to Winnipeg.", so I simply say that simply means that Mr. LeSueur cannot do what he suggested. I say he cannot do what he said he would do at all.

MAJOR LIPSETT: Is that sound, Mr. Frawley, if it was good business for the Imperial Oil Company to use the reduction to push their refined products further East, would it not be good business for the British American to extend their market and get the extra volume?

MR. FRAWLEY: They might because they are interested in extending markets but I take it a small local co-operative, the Regina Plotkins, for instance, would not be interested in anything except what he is now serving and what he can usefully serve, the local market. I suggest with respect Mr. LeSueur has just forgotten to take that into account.

MAJOR LIPSETT: Then if they got the increased business, apart from its insignificance, there would still be a market for the former capacity of the other refineries down East, the Winnipeg market.

MR. FRAWLEY: I do not suppose Mr. LeSueur could possibly, the Imperial Oil, could possibly stand to lose his Regina market. What he proposed to do is to keep his tank wagon up, keep his Regina tank wagons up and push the products further, use it as something to pay freight.

MAJOR LIPSETT: I understand that but does it not mean that he could use the 20 cents to go that much further East, even if he reduced the Saskatchewan price corresponding to the 20 cents, couldn't he still send it further East?

MR. FRAWLEY: No, he has a certain tank wagon now at Regina based on a certain laid down cost, say it is X cents and that means a certain territory which is called, "the normal Regina territory"; all that happens is that when his pipe line rate and his tranportation rate from Regina to Calgary goes down 20 cents, nothing else being disturbed, he uses that, he says he uses that to spread his market out.

MAJOR LIPSETT: Yes.

MR. FRAWLEY: The normal Regina stays the same but he uses it to push the refined products beyond the Portage La Prairie fringe. I take it that is what he means anyway.

MAJOR LIPSETT: If that is what he means he has 20 cents and all his Saskatchewan sales to add to the 20 cents reduction for the Winnipeg sales, that would give him 40 cents a barrel on the Winnipeg if that is right.

MR. FRAWLEY: I am not sure that I follow you. Regina tank wagon, Mr. Commissioner, remains the same, that is not disturbed.

MAJOR LIPSETT: So he gets 20 cents a barrel.

MR. FRAWLEY: In the Imperial that remains the same but he has an extra 20 cents a barrel profit which he says, "We will use to push the Portage La Prairie fringe further East."

MAJOR LIPSETT: Then in addition to that he has the 20 cents on whatever goes into Winnipeg as compared with his present case.

MR. FRAWLEY: Well, I do not follow that.

MAJOR LIPSETT: He would get the Winnipeg market.

MR. FRAWLEY: Yes.

MAJOR LIPSETT: And he might get that from the 20 cents reduction in the cost of his crude.

MR. FRAWLEY: Well, yes.

MAJOR LIPSETT: But in addition to that he has 20 cents extra profit on the Saskatchewan sales to add to that to go down east, if he keeps the Saskatchewan price at its present level, as you suggest.

MR. FRAWLEY: No, but he would not, his Saskatchewan business, he would be arbitrarily leaving the Saskatchewan tank wagons as they are. He would leave them as they are and simply use this as ammunition to push the export, you might say, of his refined products East of the Portage La Prairie fringe and that is all.

MAJOR LIPSETT: Yes, but even if he gave that 20 cents reduction to Saskatchewsn, he still has 20 cents, he is still 20 cents better off than what goes into Winnipeg.

MR. COTTLE: Yes, but it takes 47 cents to go that 56 miles into Winnipeg so he would still have 27 cents to make up some way.

MAJOR LIPSETT: He would have 20 plus 20 towards going into Winnipeg.

MR. FRAWLEY: But the serious thing would be that his competitors in Regina who did not have the same eagerness to capture the Winnipeg market, who did not have the same concern about that, they would have the same 20 cents of additional profit and they could cut the tank wagon price and so I suggest Mr. LeSueur cannot do, he just cannot do or rather, Mr. Halverson cannot do what Mr. LeSueur suggests he would do.

MR. COTTLE: We have a precedent for it, Mr. Chairman, when the Turner Valley price was first posted, it was posted on the basis of, as you will remember, of three different prices and in order for that to function and to take the Winnipeg market, it was necessary for the tank wagon prices

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somewhere along the line to be higher than they properly should have been so as to do this very thing, pay freight to get to Winnipeg; it was found while this Commission was sitting that that was an unsound method, that it cost the companies too much and they then delimited the market for Turner Valley crude in the neighborhood of Portage la Prairie; prior to that they were arbitrarily pushing the Turner Valley line down to near Rainy River.

MR. FRAWLEY: I take it as Mr. Cottle suggests, Mr. Commissioner Lipsett, he would be back to the same principle if he endeavored to push that Portage la Prairie fringe further East.

I overlooked to point this out and I pause only to suggest that I think that we would have to reject this suggestion of Mr. LeSueur's as to what he would do or what he now thinks he would do with the pipe line saving and I say again, as I said yesterday, that he would not do that at all, he would simply increase the field price of crude in Turner Valley by the 20 cents or the 10 cents or the 15 that he saved by virtue of the lower pipe line rate and for purposes of illustration, I have not to worry about his pipe line at all, I simply say that the application which is presently pending before the railway board, if that was successful, was successful, and it was reduced 10 cents or 15 cents or 20 cents, anything you like, and I say, and I only say it because the witnesses have said it in subscribing to this play of the economic forces, that the field price of Turner Valley crude would have to go up and if the field price went up 25 cents and of course I think 25 cents now is too much, I only gave that yesterday as a merest figure, we have something I can refer the Commission to as to what that

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would likely be and I will get that for the Commission, that is the judgment of the Board of Railway Commissioners when they approved of the reduction of the freight rates to 19 cents a cwt or 19½ cents, whatever it is, it works out at 53 cents a barrel, we have that because there is a very interesting paragraph in the judgment which says that the Canadian National Railway had submitted figures to indicate that the pipe line rate would be about 15 cents a cwt., what would that be a barrel, Mr. Cottle?

MR. COTTLE: 42 cents.

MR. FRAWLEY: 42 cents, so 10 cents is more like the figure we should be talking about; that is something there is some evidence about and so if the price came down 10 cents, the transportation costs came down 10 cents, the field price in Turner Valley would go up ten cents and the effect that that would have would seem to me to be inevitable, I think when the Imperial Oil came to pay 10 cents more for their crude they could not be expected to absorb that; the tank wagons would have to go up but now that brings us back with the help, if it was any help, of what Mr. LeSueur had to say about that -----

THE CHAIRMAN: You say that the saving of transportation should mean, on the reasoning of the witnesses who have directed their minds to it, an increase in the price of crude and an increase in the price of crude means an increase in the cost of petroleum products, including gasoline, to the consumer.

MR. FRAWLEY: Which is made from that higher priced crude, yes, that is what it means. Now I think a distinction must be drawn right here between a pipe line of

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that character to Regina and a pipe line of the larger kind which Mr. Campbell told us about, which seeks to carry crude oil in large quantities from here to the head of the Great Lakes with a view of capturing the Ontario market, and that, of course, is a different thing altogether. Then you have a different objective. Then you are shooting at the Ontario and the Quebec gasoline markets and very different economic forces would come into play.

THE CHAIRMAN: Now to boil this down, a pipe line to Regina then, in your submission, a pipe line to Regina effecting a saving in transportation costs will mean more money to the producer but a higher price to the consumer.

MR. FRAWLEY: That I say is ---

THE CHAIRMAN: All local consumers.

MR. FRAWLEY: All local consumers.

MR. COTTLE: In the province.

THE CHAIRMAN: All local consumers in the Province of Alberta.

MR. FRAWLEY: Yes, people buying ex Calgary refinery. Now when I say that I want to make it very clear that I am not, it is not part of my function before this Commission to cry down the development of pipe lines that are good and sensible. I brought this to the attention of the Commission because I wanted the Commission to realize the effects. I say it is a rather reducto ad absurdum but I want the Commission to realize what is the effect of what happens when you automatically superimpose upon the crude oil price-making mechanism, the laws of competition. They must have very free play and there is just another question about it and if Dr. Brown and Dr. Frey were in this rooms now I am quite confident that they

would say that that is what would exactly happen, there is nothing to be concerned about it, the consumer pays more, the price to the consumer goes up, and the price to the producer goes up and it naturally follows from that, that that is no concern of this Commission.

THE CHAIRMAN: It is not what they would say if they were here now but that is what you say the effect is of what they have said.

MR. FRAWLEY: Yes, if we just put this to them concretely. We do not find them saying one thing one day and another thing another day.

MAJOR LIPSETT: And it follows also that there could be no increased production from Turner Valley by a pipe line to Regina at all.

MR. FRAWLEY: Well ---

MAJOR LIPSETT: There is no benefit in the Regina additions over what they are today.

MR. FRAWLEY: Well, of course, if Mr. LeSueur was going, if he could move this crude further, move the refined products further East, than the Portage la Prairie fringe he would take some more crude to do it; there would be additional runs of crude in the Regina refinery, which would mean increased production in Turner Valley.

MR. COTTLE: In Turner Valley?

MAJOR LIPSETT: Yes, but on the proposition you are giving us he could not do it; his crude would cost him exactly the same in Regina as it is costing him today and he could not go any further.

THE CHAIRMAN: No.

MR. FRAWLEY: His crude would cost him the same.

MAJOR LIPSETT: Yes, if the freight went down.

MR. FRAWLEY: Yes, but Mr. LeSueur does not visualize in this evidence increasing the price of crude and I think that is a fair statement, he cannot possibly have it both ways.

THE CHAIRMAN: I want to be very sure I am following you. You say in effect that Mr. LeSueur's evidence is quite inconsistent, the one part with the other.

MR. FRAWLEY: That is right, I say that first, oh, I say that first.

THE CHAIRMAN: Yes, you say when he speaks of passing on the 8 cents to the producer because that is the only logical way today to keep this dynamic equilibrium, that he is in consonance, his views are in consonance with the views of Dr. Frev and Dr. Brown.

MR. FRAWLEY: Right.

THE CHAIRMAN: And when he comes to deal with the effect of the saving in the pipe line from Calgary to Regina he says something quite opposite, quite inconsistent and quite illogical if his first statement with regard to the Turner Valley line was logical.

MR. FRAWLEY: He just abandons Dr. Brown and Dr. Frey entirely and goes in the other direction.

MAJOR LIPSETT: Mr. Frawley, following up that, must he not contemplate more than a 10 cent reduction which is your final figure if he is going to possibly get the Winnipeg market because Mr. Cottle says that it will take 47 cents.

MR. FRAWLEY: Yes, that is so.

MAJOR LIPSETT: He must contemplate substantially more than 10 cents.

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MR. COTTLE: He does refer to the marginal crude, that is the marginal cost in getting it to Regina, I mean in getting it to the Winnipeg area, the refinery in Regina can figure on an additional throughput, more than the average throughput and work on it that way. I think that is quite an unsound way for Mr. LeSueur to look at it. The Consumer's Co-operative could look at it that way but Mr. LeSueur would be displacing the marginal throughput at Sarnia so it is one marginal throughput against another marginal throughput so on the face of it I think it is quite out of the question that 10 cents or even 20 cents would put the crude into the Winnipeg market; now something could be done to recapture that market but the neat point is that the producer is fundamentally better off by taking the higher price and doing without the Winnipeg market.

(Go to Page 17,001)

MR. FRAWLEY: Now I think that is all I can usefully say about the manner in which the field price is made up.

THE CHAIRMAN: You said, Mr. Frawley, something more. You say that while that result must inevitably flow if the evidence is to be accepted of Dr. Brown and Dr. Frey, we will say, you were going on to say that something different might be the case if the pipe line were projected beyond Regina so as to lower the costs from Regina, the transportation costs.

MR. FRAWLEY: Yes. I can say with some confidence what I have said with regard to the pipe line to Regina, because Mr. LeSueur told us precisely what he was going to do and we are able to test that with what everybody else says should be done. I am not in the same position with regard to the larger pipe line to the head of the Lakes. I simply want to safeguard my remarks in respect to that pipe line. Mr. Campbell came and gave us some evidemce as to the project of the pipe line, and I do not know that he gave us very much information as to what the cost would be or whether his figures had yet arrived at the stage at which he could give us what the cost to the Great Lakes would be. I am assuming that he could not capture the Ontario market entirely without a large price drop in Turner Valley. I do not want to be too concrete about that. I can direct myself more particularly with regard to Mr. LeSueur's suggested pipe line to Regina because it is here in the books for us. I do not think the evidence with regard to the Campbell pipe line is sufficiently clear to enable us to make any such statement. I want to say I am not saying for a moment

that the remarks I have made with regard to the Regina pipe line would apply to the larger pipe line for the purpose of gaining the Ontario market. I have always had in mind if a pipe line were consummated to the head of the lakes that that would be a very great advantage to the consumers in Alberta; that the field price would go down with the gaining of the larger market and the larger volume of throughput, and then the tank waggons in Alberta would go down. That would be one immediate consequence of such a pipe line.

THE CHAIRMAN: Does that follow Dr. Frey's and Dr. Brown's evidence?

MR. FRAWLEY: I do not know that they were asked to put their minds to that.

THE CHAIRMAN: No, but their reasoning.

MR. COTTLE: That would follow their reasoning. The price of the Turner Valley crude would have to be the competitive value of that crude at Sarnia less the cost of getting it to Sarnia from Turner Valley.

MR. FRAWLEY: What does that do wit respect to the proposition......

THE CHAIRMAN: The theory of passing on the savings to the producer, does not that element obtain?

MR. COTTLE: I do not think you could contemplate savings in that case. Speaking of Regina, we have a high value of crude at Regina because it is some distance from the competing field compared with the same competing prices at Sarnia. It seems obvious that the price would have to be much lower to compete at Sarnia. It depends on two things, one, on the cost of getting other

crudes on a competitive value with the crudes at Sarnia, and on the cost of operating the pipe line.

THE CHAIRMAN: You say then that the carrying of the pipe line beyond Regina must be considered as a thing apart because the Regina situation is governed by the price fixed by competition of Montana crude at Regina?

MR. COTTLE: That is right.

THE CHAIRMAN: And when you go beyond Regina you are concerned, or beyond this economic fringe that Dr. Brown speaks about at Portage la Prairie, you are then concerned with compotition from an entirely different source.

MR. COTTLE: That is right, Sir.

THE CHAIRMAN: That is from Sarnia and you have to see what the competitive price is at Sarnia?

MR. COTTLE: That is right. The same principles exactly would then apply.

THE CHAIRMAN: That might have the repercussion, if the producers of Turner Valley thought it wise to extend their market at the cost of the field price of crude which now obtains, then, of course, it would go down and the cost to the Alberta consumer of gasoline products would go down correspondingly.

MR. COTTLE: And also to the Saskatchewan consumers would go down correspondingly.

MR. FRAWLEY: Yes.

MR. COMMISSIONER LIPSETT: This refinery at Brandon, does it enter into this picture at all? We have not much evidence about it, but does it affect the thing at all?

MR. FRASLEY: We have not much evidence on it, that is true. We do know at the moment the Brandon Refinery is taking crude oil by rail from Calgary at a cost of 34 cents or 35 cents - I am not sure what the figure is - per 100.

MR. COTTLE: It is about $1.00 a barrel.

MR. COMMISSIONER LIPSETT: That must be competing in that area with either Regina or Moose Jaw or Sarnia?

MR. FRAWLEY: Or Sarnia. Largely Sarnia. Well, both. Brandon, of course, is nearer Regina than Portage la Prairie. They are within the Portage la Prairie fringe. Their competition would be Regina. But the reason they feel it so badly is that Regina has a very favourable freight rate, based upon the potential pipe line competition. Brandon does not enjoy any such rate, and that is why, theoretically, the Brandon operation would seem to be a pretty difficult one. I do not know to what extent they are overcoming the obstacles. It is the Anglo-Canadian Oil Company who, of course, own production in Turner Valley. Although there again we are told they sell the product to the Imperial and buy it back at the Calgary end.

THE CHAIRMAN: Can you conveniently point to the place in the evidence where Dr. Brown discusses what is required by way of barrellage to probably induce a pipe line company to put in a pipe line.

MR. FRAWLEY: This large pipe line.

THE CHAIRMAN: Yes.

MR. COTTLE: Did you say values?

MR. FRAWLEY: No, barrellage.

MR. COTTLE: Oh, barrellage.

THE CHAIRMAN: Yes. We had a long discussion about this hiatus between the present barrellage and a barrellage which the drill had proven, that would induce any pipe line company to spend the money necessary to put in the line. However, do not bother now if you have not got it under your finger.

MR. FRAWLEY: Somebody said yesterday that the figure was 39,000 barrels at the head of the Lakes. I think that was Mr. Campbell. I think there was some reference to it by Dr. Brown and I will endeavour to find that for you some time later.

THE CHAIRMAN: We had a lengthy discussion with Dr. Brown as to how we were going to get there. How are you going to get into a position where a pipe line company would be attracted?

MR. FRAWLEY: And the intervening steps and so on?

THE CHAIRMAN: There would be an intervening period when you would have 20,000 barrels or so per day available which could not be used.

MR. FRAWLEY: Yes, that certainly is mentioned. Of course, that is mentioned by Dr. Frey, something that I want to call your attention to there is that Dr. Frey spoke about it.

THE CHAIRMAN: Well do not bother now. I have it noted somewhere else but I just thought you might happen to have it there.

MR. HARVIE: Volume 126.

MR. FRAWLEY: Well, I might proceed to discuss Field Contracts then, Mr. Chairman. I first want to call your attention to what Mr. Nolan says in Volume 56 at

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Page 6,855. It is a statement we are all familiar with and I probably need not read it. But it is very short.

" "MR.NOLAN: The policy I am "instructed to enunciate is that it is contemplated " to sell crude to any bona fide purchaser such "surplus of crude as we control and which may not "be needed for our own Imperial requirements at "what we call the average weighted tank price, "based on the posted field price and subject to the "transportation, delivery and handling charges and "regulations fixed for the pipe line, provided that "the purchaser make satisfactory financial arrange- "ments for payment.

" I am also instructed to "say that this policy should not be regarded as a "hard and fast one, and without limit as to time, "but as being subject to revision to meet conditions "as they arise, although at present we see no reason "for deviation. Otherwise we would, in our opinion, "be discriminated against as being tied to a stated "policy while other owners or producers of crude "remain footloose.

" Now I think that is what "the Commission would have from me, because in the "first instance I talked about the posted field price, "transportation charges and handling charges, and the "Chairman put it to me the other day "Is there any "change in that". Well you see, Sir, there is a "slight change but it is in connection only with "the price to be paid in the field, and this statement "of policy says that we are prepared to pay the average

"weighted tank price based on the posted field price."

THE CHAIRMAN: Did not we ask Mr. Nolan to ascertain what is precisely meant by this handling charge? Did you not go into that, Mr. Nolan?

MR. NOLAN: Did I, Sir?

THE CHAIRMAN: Yes, did not we ask you to?

MR. FRAWLEY: We asked you what you meant by that and you said that that was the charge, the pipe line being a public utility at that date, that it meant the handling charges fixed by the Public Utility Board.

MR. NOLAN: Yes, I did say that.

THE CHAIRMAN: And there was something raised in the course of the discussion, you may remember, with regard to the situation of those refineries in Turner Valley.

MR. FRAWLEY: I have a reference to that. Then Mr. LeSueur deals with that. "Re Selling Crude at Turner Valley," and that is in Volume 135, at Page 15,057. There Mr. LeSueur says, - well he first deals with it at Page 15,054.

" I believe, Mr. Chairman, that we did submit
"a statement showing forth our general policy
"fairly definitely, which in rough terms was
"that we were quite willing to turn over any oil,
"beyond our requirements, which was available to
"us, to other refineries at the posted price plus
"pipe line and handling charges. Now I think the
"point was raised the other day that that was a matter of

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"grace, but of course, Mr. Chairman, at least not in "practice. The Conservation Board, as I understand "it, gets nominations from the refineries in Alberta, "in Saskatchewan and in Manitoba and on the aggregate "of those nominations they set tht total allowables, "also the allowable for each well. Each well is "entitled to produce its allowable and if we do not "turn that oil over to other refineries we would "have a surplus which would have to go into storage, "which, of course, in practice is an impossible "situation. "

And then at Page 15,056, he says:-

"Q Now what I would like is a statement from you
" as to what the policy of your company would be
" as to treating with the Standard Oil Company
" of California or any other, say refinery "X",
" that would need oil but had no way of getting
" it directly from the producers for the good
" reason that yourselves, the British American,
" Mr. Mayland and Mr. Plotkins have it all, as
" I understand, now under contract, what would be
" the mechanism of this refinery "X" getting his
" oil after he had gone to the Board and the Board
" had done their part?
"A Well the mechanism, I presume you mean the detailed
" mechanism, Mr. Frawley?
"Q Would you sell the oil, that is just a blunt way
" of putting it, would you hold yourselves ready
" and willing to sell to this refinery "X", the
" oil that would be assured by the allowable having

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" been increased by the Conservation Board
" to cover that refinery's requirements?
"A I think we made the general statement that any
" surplus over our own requirements, we would sell
" to any responsible purchaser at the posted price
" plus the pipe line rate fixed by the Commission,
" plus handling charges and so on.
"Q Yes, that is how you would take care of the
" requirements of any such refinery?
"A Yes.
"Q Now that was limited to the Calgary end of the
" pipe line and I think it would be well to have
" your views as to that, whether or not any dif-
" ferent situation exists or what exists in the
" case of a refinery or other responsible persons
" desiring delivery in Turner Valley?
"A Well I suppose that would be, that would have to
" be handled according to the situation.
"Q Well that is a man who perhaps would not desire
" to pay the whole pipe line rate, not having used
" all of the pipe line rate, I wondered if you had
" evolved any policy as to how you would deal with
" a man of that kind?
" A We have evolved no definite policy on that."

THE CHAIRMAN: That is page what?

MR. FRAWLEY: That is Volume 135, and that last passage is at Page 15,057. I do not think that was ever added to. I do not think we have anything better then that or anything more definite.

THE CHAIRMAN: That is right but did not we ask Mr. Nolan to find out if he could get anything more

concrete? You see it strikes me - I may be wrong about this - but it strikes me that the Public Utilities Board may have nothing to do with that situation. If so we should be making a recommendation.

MR. FRAWLEY: I have a suggestion that might take care of it. In any event let us explore what you are dealing with.

THE CHAIRMAN: We have had some evidence from Gas & Oil Products on the point. I do not think we have had anything more from Mr. LeSueur other than to say he has not done anything or come to any conclusion. I was under the impression, I may be wrong, Mr. Nolan will perhaps correct me if I am, that we asked Mr. Nolan to get some further information. Am I wrong about that?

MR. NOLAN: I do not rememler it, Sir. I certainly did not, and I would have if I had been asked, I am sure.

THE CHAIRMAN: Perhaps I am just wrong about that.

MR.NOLAN: Are you thinking about the telegram that passed between Mr. LeSueur and Mr. Tanner, Sir, where there was a charge......

THE CHAIRMAN: No. That discussion has to do with a buying charge for people outside.

MR.NOLAN: Yes. Handling charges were mentioned.

MR. FRAWLEY: I was going to refer to those exhibits and perhaps I had better refer to them now.

THE CHAIRMAN: Probably you know the answer to this, and I would just like your views. Probably the answer is that the Public Utilities Board has control

of it. What do you say about that, Mr. Mahaffy?

MR.MAHAFFY: Sir, I have no definite recollection of any arrangement made to get further information.

THE CHAIRMAN: Mr. Nolan says that he has no memory of that, and he is no doubt right.

MR. NOLAN: I do not remember it. If anybody else remembers it I stand corrected.

THE CHAIRMAN: That is of no importance as to whether it is remembered or not. But whether we will be in a position to deal with it is of some importance. I say to you, representing Gas & Oil Products, - and I suppose Becker would be in the same position - has the Public Utility Board the power to deal with this?

MR.MAHAFFY: Sir, when you mentioned that a few minutes ago it brought something back to my mind. I think you threw out a suggestion to Counsel a couple of weeks ago that perhaps we could give you the benefit of our views as to whether or not the Public Utilities Act, in its present form, does cover that situation. Now. frankly, I have overlooked that. I have not looked into it. I do not know whether they have or not. But I would be glad to do that in the course of the next few hours.

THE CHAIRMAN: Perhaps that is what I have in mind. You see we have no desire to concern ourselves with anything that is properly within the realm of the Public Utilities Board, the powers they now have with respect to the pipe line. On the other hand, we have a definite complaint from your client before us. If it is before the wrong tribunal, all right, we won't deal with it.

MR.MAHAFFY: I think that your

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Lordship's idea the other day was, it was just a question probably now as to whether or not the Board of Public Utilities Commissioners had jurisdiction to hear the application which is now pending before it by Gas & Oil Products. As I say frankly I had overlooked in the preparing of the argument, I frankly overlooked that particular point. But now that your Lordship has mentioned it I think that is the way it was left, is that we were to give you our opinions as to whether or not in fact the Act gave the Board jurisdiction to deal with this.

THE CHAIRMAN: You say if it was just left as a handling charge all right. That may sound fine. It might work out very badly if the handling charge is to be exactly whatever the person charging wishes to make it. On the other hand, if it is within the domain of the Public Utilities Commissioner control there is no reason to be apprehansive at all. There is probably no reason to be apprehensive anyway, but it should not be left in that vague unsatisfactory fashion, I would suggest. If it is of any interest to this Board at all, Mr. Frawley.

MR. FRAWLEY: The pipe line and its appurtenances, gathering lines and all of that, are public utilities, you might say a conglomerate of public utilities. If Mr. Mahaffy's clients only wish to have the gathering system a public utility, surely Mr. Mahaffy can make application for fixing a rate.

MR. NOLAN: He has.

MR. FRAWLEY: Has it been suggested that the Public Utilities Board has no jurisdiction to fix a rate?

MR. MAHAFFY: We say that we are not

using the gathering system of the Royalite Company. We are piping it from the well.

MR. FRAWLEY: Then it is not anything which brings into play a public utility, or any part of it I understand. That is your position?

MR. MAHAFFY: That is the whole point as to whether the Public Utilities Act does cover whether the Board has power to fix a charge which the Royalite can make to us when we purchase the oil from their well site.

MR. FRAWLEY: Let me understand, if the charge has nothing to do......

THE CHAIRMAN: It is probably a small thing and one of those little knotty things that we want to get out of the way.

MR. FRAWLEY: If the charge which the Royalite seeks to make is a charge which has nothing at all to do with the use of any part of the public utility, not anything to do with it, I would say at once the public utility has not got a thing in the world to do with it, it is just a charge which the Royalite Company says in its wisdom they should make and they make the charge. It has nothing at all to do with the utility. If that is so, then we cannot look to the Public Utilities Board for any help. Should it be thought by anyone that that charge was too much. Then what remedy might Mr. Mahaffy and his clients have? None I would say as far as the Public Utilities Board is concerned. That brings me then to a suggestion I am going to make to the Board.

MR. COMMISSIONER LIPSETT: Was not Mr. Mahaffy's client's point that they wished to buy oil at the well

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at the posted field price, and that they were not able to get that unless they paid an additional charge to the Royalite.

MR. FRAWLEY: That is true.

MR. COMMISSIONER LIPSETT: Of 6 cents was it?

MR. MAHAFFY: Yes.

MR. FRAWLEY: That is true, and that 6 cents would presumably, always assuming Mr. Mahaffy is right in his facts, he stated what he understands to be the facts and I am accepting that, and if it is right that Mr. Mahaffy's client takes the crude before it ever reaches any part of Mr. Nolan's public utiity , then one single question remains, is that charge in the opinion of anybody that might have anything to say about it - this Commission for instance - too much or too little?

MR. COMMISSIONER LIPSETT: Or is he, under conservation, to be entitled to get oil at the posted field price if he takes it at the well and there is a supply available, within conservation?

MR. FRAWLEY: The Conservation Board would not have anything to do with that. They simply see to it that the oil is produced, but Mr. Mahaffy still has to find a vendor and pay the vendor's price. Before we leave it I think I should put into the record the effect of the telegrams which passed between Mr. Tanner and Mr. LeSueur. They were accepted by Mr. LeSueur you may remember. And they were very simple. He said in his telegram of the 27th of March last to Mr. Tanner, Mr. LeSueur said in Exhibit "669" - and the transcript is not much use to you because Mr. LeSueur simply accepted the copies. He was good enough to accept the copies as being

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true copies.

"Amounts of crude produced in Turner Valley "depends upon orders or Conservation Board "Stop Of total crude now produced in Turner "Valley our companies produce about 20 per "cent and control by purchase contracts about "50 per cent and the remaining 30 per cent being "under the control of other producers or purchasers. "Stop Our policy is and will be to sell to any "bona fide purchaser such surplus crude as we may "not need for our own requirements at posted field "price plus pipe line buying and handling charges "provided such purchaser supplies suitable facilities "for accepting delivery and makes satisfactory "financial arrangements for payment stop We have "been selling to others and are prepared to sell "on above basis stop Confirming letter follows "by air mail."

The letter said:

"Dear Mr. Tanner:

" Herewith I enclose confirmation of our telegram "of Monday evening, March 27th, to you.

" The percentages of the production in Turner "Valley which is produced by our companies and which "is covered by purchase contracts held by our "companies are, of course, approximate and vary "slightly as new wells are brought in from time "to time or the production of the older wells "declines but I believe fairly represents the "present production position in Turner Valley.

[illegible]

[illegible]

[illegible]

"We have a clause 4 (c) in our purchase contracts "which was inserted prior to the regime of the "Conservation Board and had for its main purpose "theprevention of a situation where the amount of "oil offered would exceed the market demands and "the providing in such case for an equal restriction "on the production of our own wells and the wells "covered by the purchase contracts. The orders "of the Conservation Board now serve this purpose "as they fix the allowable for the different wells "on the basis of the total market demand and so "long as this situation continues the purpose of "our clause 4 (c) is served and the clause not "used. I believe that apart from the above "remarks our telegram is clear and needs no comment.

" With kindest regards, I am,

Yours sincerely,

(Sgd) R. V. LeSueur."

Now it may be that what they are asking from Mr. Mahaffy's client, and which they probably have a perfect right to ask, is a buying charge.

MR. NOLAN: That telegram had nothing to do with the pipe line from Turner Valley to Calgary.

MR. FRAWLEY: No, it had to do with.....

MR. NOLAN: With Mr. Tanner's trip to England.

MR. FRAWLEY: It had to do with making available for any larger pipe line to the head of the Lakes

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oil for that pipe line. That is quite right. I am merely suggesting - if it is not warranted by the telegram I withdraw it immediately, but I am wondering in view of all the facts, and Mr. Mahaffy states what the 6 cents is, and again assuming that Mr. Mahaffy is right when he says the oil does not go near the public utility, but he takes his own pipe over there...

THE CHAIRMAN: Does that apply equally to the B. A., in the Valley, Mr. Harvie? Does that have any application to your plant in the Valley?

MR. HARVIE: I think not, Mr. Chairman. You mean as to purchasing crude in the field?

THE CHAIRMAN: Yes.

MR. HARVIE: We do not use crude in our plant in the Valley.

THE CHAIRMAN: It would have no application to you?

MR. HARVIE: No, none at all.

THE CHAIRMAN: It would to Gas & Oil Products and Becker?

MR. HARVIE: And possibly the Saskatchewan refiners who bought directly in the Valley.

THE CHAIRMAN: Moving it by truck?

MR. HARVIE: Moving by truck.

MR. FRAWLEY: But anybody that bought, presumably the Saskatchewan trucker would purchase oil after it travelled in part, at least, through the pipe line system, and then the charge would be a carrying charge, and that of course, could be solved, any problem of that kind could be solved by application to the Public Utilities Board. I am only thinking of the charge imposed over and

above anything that would come within the purview of the Public Utilities Board. Because I quite agree if it comes within the purview of that Board we do not want any duplication.

THE CHAIRMAN: None at all.

MR. MAHAFFY: May I interrupt. This certainly does not affect the general principle involved. But as to our particular position. We bought considerable crude from the Royalite Oil Company last Spring, and it was then we bumped into this difficulty. Since then we have not been buying crude, and from a purely selfish point of view, the point does not give us very much concern at the present time. But, of course, I realize there are others that may be in the same boat as we were last Spring, and it may be that the point will come up in the future. But from a practical point of view, and as I say from a selfish point of view, my particular client is not unduly concerned about this particular situation at the present time. What I would like to suggest, if I may, is that if the Public Utilities Act does not cover the situation that the Act be amended so as to give the Board of Public Utility Commissioners power to deal with such a point as this, and similar points when they come up in the future they can be dealt with by that Board. Because in almost every case there is some little difference in the place and type of delivery that is taken. Now last Spring as I say, our argument is we were taking delivery from tanks at the wells. Now it is conceivable at some other time we might be taking delivery from some branch gathering line and it seems to me that almost every case is liable to be somewhat different in its basic facts.

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And for that reason if I may interrupt to suggest, I would like to suggest that if the present Act does not cover the situation, the recommendations should be that the Act be amended to give the Board jurisdiction.

MAJOR LIPSETT: Is the neat point, Mr. Mahaffy, not rather this, that if you are having conservation that all people requiring crude oil should be able to have it at the posted field price at the well; that if they require any additional service in the way of gathering lines of course that would have to be paid for.

MR. MAHAFFY: Yes, that rate would be paid.

MAJOR LIPSETT: That rate would have to be fixed but if there is conservation on the one hand there has to be distribution of the oil to all requiring it at the posted price without having to pay a commission or a handling charge or any buying charge to competitors.

MR. MAHAFFY: That is right.

MAJOR LIPSETT: Whether that is right or not.

MR. FRAWLEY: Of course I see a distinction between something which comes within the purview of the Utilities Board, some function to be performed by the Public Utilities Board and something which is apart from that, which is certainly the kind of thing Mr. LeSueur was talking about in his telegram.

MAJOR LIPSETT: They are entirely two dif-

ferent questions are they not.

MR. FRAWLEY: Quite.

MAJOR LIPSETT: Whether or not in the first place the posted field price, once being fixed, crude oil is to be available within conservation limits to everybody requiring it.

MR. FRAWLEY: Yes.

MAJOR LIPSETT: And secondly if any additional service is rendered such as part gathering or whole gathering or transportation, that is an extra charge to be paid for in the regular way.

MR. FRAWLEY: Yes.

MAJOR LIPSETT: Now so far as anything which goes through the pipeline is concerned, I understand the position of the Imperial is this, that there is no buying charge or no handling charge imposed other than that imposed for the Public Utilities.

MR. FRAWLEY: That is right.

MAJOR LIPSETT: But that in the case of somebody buying at the well itself, they seek now or did seek with refernece to Gas and Oil Products to impose an additional handling charge of 6 cents, is that correct.

MR. FRAWLEY: I think that is so. I simply put it to the Commission this way with respect to anything which could be dealt with by the Public Utilities Board as a public utility and that is a very easily ascertainable thing, there is no cause for any cocern; indeed I do not see any cause for concern with respect to any aspect of it but certainly that is some-

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thing the Commission need not bother about. Anybody who wishes to, can go to the Board and have a special amount fxied for that special service, however small it may be, but on the larger question of whether or not the situation is left in a perfectly satisfactory way outside of the Public Utility, that is something else and I for that reason, call your attention to the telegram and I want to see what Dr. Frey says about it.

THE CHAIRMAN: What do you think of Mr. Mahaffy's suggestion. Dr. Frey says of course it is perfectly right if they are doing the buying for somebody else they should have a brokerage charge.

MR. FRAWLEY: That is right, that is what I was going to call your attention to. I was not going to leave it with the suggestion there was something wrong. Dr. Frey deals with that in Volume 137 at page 15,350 and at pages 15,351 and 15,352.

Now I say, and the most I say, is that that does not leave it very satisfactory, in that there might be an exorbitant buying charge, brokerage charge, imposed and collected by the Imperial. Now I have no particularly strong views about it and if that does not impress itself as being a matter of any great moment to the Commission we will do nothing about it.

THE CHAIRMAN: What do you say to Mr. Mahaffy's suggestion, he is the only one who has raised the point and he says it doesn't matter to him now. Why should we worry about it, except to know in the future whether he is concerned or not, that anyone down there who is concerned can have recourse to a body who will hear

their complaint and determine the justifiableness of it, what do you think of that.

MR. FRAWLEY: I think it is an excellent idea except I do not think it is the Public Utilities Board at all, I do not think the Public Utilities Board should deal with these things except such as are a Public Utility and when we get into matters outside of a Public Utility then we would be asking it to do a wholly extraneous function if we imposed that on the Public Utilities Board.

THE CHAIRMAN: Mr. Mahaff's suggestion is that it is so tied up with the pipeline, as I understand him that is what he says, that it is so tied up with the pipeline.

MR. MAHAFFY: Yes.

THE CHAIRMAN: That the powers should be enlarged and that to the extent which is necessary the utility be enlarged to cover something more.

MR. FRAWLEY: Well but if it was just a brokerage charge which the utility as such was not imposing but the Imperial Oil Limited or the Royalite Oil Company, but not the Valley Pipeline Company Limited which now you know is the Utility, if it were the Imperial Oil or the Royalite Oil Company, it seems to me it would be a matter foreign to the Utilities Board; it is a very fine line and I do not want to unduly press the point.

MAJOR LIPSETT: Is the point not really narrower; there could be no question that if Gas and Oil Products employed the Royalite to buy oil for them that they should pay brokerage.

MR. FRAWLEY: Yes.

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MAJOR LIPSETT: But equally are they not entitled to say "We do not want a broker. We want to have, if there is surplus oil under conservation, we want it given to us at the well without paying any brokerage", and then is any other company entitled to come in and say "No you cannot get that, you will have to employ us as your broker and pay us brokerage".

MR. FRAWLEY: Yes, you are right. They speak about a buying charge but if the applicant, the purchaser goes directly to the person with the oil, then it would seem to me that they are simply interjecting, interjecting one of the other companies into this as the buyer. If Mr. LeSueur's telegram, supposing a purchaser---

MAJOR LIPSETT: In this particular case is it not really turned around and do they not say "No you cannot get oil unless you pay us a commission".

THE CHAIRMAN: A premium.

MAJOR LIPSETT: "A premium on the field price and as a result put yourself in an inferior competitive position".

MR. FRAWLEY: You see I think the matter, I think we have to keep in mind this, that it all comes out of the fact that the field is under contract. If those contracts were not there these questions would never arise. Now the contracts are there for very good business purposes. Everybody thinks these contracts are necessary and provident, and are necessary to be there.

MAJOR LIPSETT: But on top of that and on top of that position, the Government has seen fit to impose conservation.

MR. FRAWLEY: Yes.

MAJOR LIPSETT: Which prevents companies like the Gas and Oil Products not having their contracts fulfilled.

MR. FRAWLEY: So they have to go out and buy.

MAJOR LIPSETT: Yes, they go out and get some of the oil available.

MR. FRAWLEY: Yes, you might say if, if there was no pro-ration upon the wells which Mr. Mahaffy's plant buys his oil from, that there would not be any need for going out and buying from others.

MAJOR LIPSETT: Yes, the difficulty is as I see it, does not flow from Royalite's contract. It flows from the restrictions imposed by conservation on Gas and Oil Products, which will not enable them to obtain the benefits of the contracts which they have.

MR. FRAWLEY: My suggestion is one which goes to the fact that there are contracts there and my submission to the Commission is that there be an approval required to the validity and enforceability of the contract which approval can be given in a purely formal way but which would give to some regulatory body, be it the Public Utilities Board or any other body, the right to say, the right to withhold approval or to cancel an approval already given and only to be used, such weapon only to be used in the event that some exorbitant charge was imposed or some unreasonable attitude was taken by the company having the oil.

MAJOR LIPSETT: Or some additional charge.

MR. FRAWLEY: Yes, and I see nothing restrictive about that at all and so my concrete submission is that there should be a recommendation that all contracts existing or to be entered into require to be filed with some regulatory body for approval as a condition precedent to validity with power in the regulatory body to withhold approval or recind approval once given if in the interests of the industry such action is warranted.

Now I have nothing, I mean, I do not contemplate for the moement that there will be any restrictive or a burdensome or an exorbitant charge imposed by the Imperial.

THE CHAIRMAN: How would that effect the 6¢ handling charge.

MR. FRAWLEY: Well if the 6¢ was deemed to be an exorbitant charge, the contracts, there would not be any-----

THE CHAIRMAN: It is quite outside the contracts.

MR. FRAWLEY: Well but you see-----

THE CHAIRMAN: It might be between a company that happens to have a contract and a third party.

MR. FRAWLEY: But it comes out of the existence of the contract. It would not be there at all except for the existance of the contract. Now if there was such a power to withhold approval to all the contracts of the Royalite Oil Company unless a fair and reasonable handling charge was exacted and no more, it

seems to me it would be a very good, a very powerful weapon to place in the hands of a regulatory board to bring the oil company to a reasonable basis for their charges.

Now that is, the only other suggestion is to throw it into the hands of the Public Utilities Board to fix handling charges or some other body, the Public Utilities Board or some other body to handle it and to set up a schedule on handling, brokerage charges or buying charges, whatever you like, that is perhaps the more direct method of approach and I am of two minds about that, just that there should be some opportunity for someone to express an opinion and to break a dead-lock for instance.

THE CHAIRMAN: Why should not the Utilities Board or some other body as you say, why should they not simply have the right to say what is a fair charge for any service rendered.

MR. FRAWLEY: Yes, that is a better suggestion than mine. Mine is a much smaller suggestion, that it should be tied up with the field contracts and I am not attacking the field contracts at all.

MAJOR LIPSETT: It is only fair to say I think, Mr. Frawley, when this question was raised the Imperial Oil and the other larger companies made what seemed a perfectly fair suggestion that they would sell the crude oil at the posted price to anybody requiring it.

MR. FRAWLEY: I am very mindful of that.

MAJOR LIPSETT: That went through, it

only applied to what went through the pipeline.

MR. FRAWLEY: That is right.

MAJOR LIPSETT: But it seems to me that the logical thing is, following from that, that the posted field price is available to everybody at the well so long as there is no service; that is in the first place the company that makes these contracts must get the benefit of them for their own requirements but if you pass the limits of their requirements , if you are going to have conservation, surely the rest must be available to distribute among the people requiring it and it would seem possible, at least it requires consideration as to whether that should not be at the posted field price without any further charge.

MR. FRAWLEY: Quite so. Your suggestion under those circumstances is because of the intervention of the Conservation Board which brought about this state of affairs, that there should be no penalty imposed and that they should get it at the posted field price, well my suggestion would take care of that because whatever regulatory body was given control would have control over that.

THE CHAIRMAN: Supposing it doesn't cost the pipeline company anything.

MAJOR LIPSETT: If there is no service.

THE CHAIRMAN: Of course there is the suggestion that there is some service.

MR. FRAWLEY: That is true.

THE CHAIRMAN: And there is no reason why the Gas and Oil Products should get a service for nothing.

MR. FRAWLEY: And that is a Public Utility service, that is already covered.

THE CHAIRMAN: As to how much, that is surely something we have no evidence on, upon which we could settle it here.

MR. FRAWLEY: If it is just a simple pumping operation, that is service, that is part of the Public Utility because the definition is broad, it covers pumps, mainlines and everything. That does not come within the purview of the suggestion I am making, the pumping at the well.

MAJOR LIPSETT: Is that not part of what the wells did, it is put into the tank at the well, that up to that point that is the duty of the well or the custom of the well.

MR. FRAWLEY: But I think Mr. Commissioner, we cannot do anything more here than discuss the principles.

THE CHAIRMAN: It is my memory that the well did that pumping.

MR. NOLAN: The oil was gathered from several wells and placed in one central tank on the lease on which these wells were located; it was in fact gathered into one central place on the lease from which the Gas and Oil Products took delivery.

MR. HARVIE: Is there not another phase too-----

MAJOR LIPSETT: Mr. Harvie, just a moment, on that, Mr. Nolan, so that we will have it clear, was that something done by the Public Utility or was that something done by the wells.

MR. NOLAN: By the Public Utility.

MAJOR LIPSETT: Was it gathered from the four wells on the lease to the one tank, was that done by the wells or was that done by the Public Utility.

MR. HARVIE: By the pipeline company.

MR. NOLAN: No, I would think that was done by the wells themselves, to the central tank farm on the lease.

MR. FRAWLEY: Then there is still another question there.

MR. HARVIE: Or from their own wells.

MR. NOLAN: Yes.

MAJOR LIPSETT: Then the service by the pipeline does not arise but if it is done by the Public Utility----

MR. MAHAFFY: I think that is where my learned friend Mr. Nolan and I differed, at least our clients did. There was one tank farm where the production from these three or four wells was taken and the reason I was told was for the purposes of economy; there was no gathering. If we had only one well in the district there would have been the one tank but for the purposes of economy you had the separators from your four wells in one spot so one man could look after the four wells and consequently we claimed that is just the well tank farm and we took our production from that spot.

THE CHAIRMAN: How do you get it to your own refinery.

MR. MAHAFFY: Well now, sir, I am not entirely sure but I know we put in a line. We put in a

mile of line.

MR. NOLAN: I think the evidence is that we pumped.

MR. MAHAFFY: I think the evidence was that the Imperial pumped it.

MR. NOLAN: Yes.

MR. MAHAFFY: Although we wanted to pump it and they said "No", they would use their own pump. We were ready, willing and able to put in our own pump.

MR. NOLAN: I remember that now, sir, because I remember the Chairman said "Is it a pumping charge" or "Is it a handling charge" or "Why is this being added to the posted field price" and it is quite clear now to me that we did the pumping.

MR. FRAWLEY: But Mr. Mahaffy wanted to pump.

MR. HARVIE;; There is the other phase too, as to whether possibly there is justification for the Gas and Oil Products or any person else being able to buy except through the pipeline. It is a Public Utility and the more throughput the cheaper the rate will be and if too many people go and take directly, it is going to effect that; we are going to be penalized one way and benefitted the other.

THE CHAIRMAN: Is the suggestion that they move to Calgary.

MR. HARVIE: No, not necessarily, but maybe it should be the duty of the pipeline to collect and deliver in the field and get a charge, charge what is a fair charge.

THE CHAIRMAN: Yes I see.

MR. FRAWLEY: I think if Mr. Mahaffy is right in saying that he wanted to pump and was not allowed to, now there the Public Utilities Board could do something. They could order the connection to be made and then Mr. Mahaffy could do his own pumping.

MR. HARVIE: Only if Mr. Mahaffy's pipeline were declared a Public Utility.

MR. FRAWLEY: If you look at the definition every pipeline in every section of the Province of Alberta is a Public Utility and Mr. Mahaffy's pipeline would be a Public Utility too.

MAJOR LIPSETT: But what you would have to deal with then would be a well which is not a Public Utility. The well gets it to the tank, as I understand it.

MR. FRAWLEY: Yes.

MAJOR LIPSETT: Now that is not a Public Utility and what happened, according to the statement which we have now, is that Mr. Mahaffy wanted to take his oil from there and pay the posted field price but that Mr. Nolan's client said "No, we insist on doing the pumping and we are going to make a charge", that is just the same as if they said "We are going to insist on being brokers". If it is not wanted, it is a question and a neat question as I see it whether, if there is conservation, whether the statement that Mr. Harvie made in reference to crude oil going through the pipeline should be extended to all crude oil so long as there is conservation and one cannot of course be blind to the point which Mr. Nolan and Mr. Harvie both make that of course while they are getting a

profit or handling charge through the pipeline, they might make that here, and still not have anything on which to make it down in the field.

MR. FRAWLEY: Well I think my suggestion, Mr. Chairman, provides an avenue of dealing with both matters by the Public Utilities Act, the Amending Act, and the power be given to that Board or to some other Board to deal with the other aspect of it.

MR. HARVIE: Do you withdraw your suggestion then that contracts be subject to approval.

MR. FRAWLEY: The contract itself, well that is simply a means to an end which I am prepared to accept the Chairman's suggestion on, as an improvement on mine, that the treatment be more direct; it be simply a power to fix and say what shall be the fair brokerage handling charge, not any Public Utility service charge.

Now I pass from the question of field contracts to the question of conservation and I want to say at once----

THE CHAIRMAN: What do you say about the life of these contracts.

MR. FRAWLEY: Well I accept what Dr. Frey says about that. Oh no, I must, before I pass, I am sorry, Mr. Chairman, I want to read what Mr. Harvie. I read what Mr. Nolan said and I want to read what Mr. Harvie said about what his company was prepared to do, at Volume 56, page 6,879;

THE CHAIRMAN: Mr. Nolan was what volume.

MR. FRAWLEY: Was Volume 56, page 6,855 and Mr. Harvie at page 6,879;

"MR. HARVIE: Mr. Chairman, you have "asked for a statement of policy of the British "American Oil Company in regard to the sale of "any surplus crude that it might have, not re- "quired for its own requirements. I have had the "advantage of reading the statement made by Mr. "Nolan, and I am authorized to say that that "polby suggested by the Imperial would be agree- "able to the B. A., in all details with the one "exception, and that exception is necessary, I "think, Mr. Chairman, in view of the possibility "suggested in a remark of your own which I may "read from the transcript. '

And then reading:

"And your statement varies also,does it not, "Mr. Nolan, in that you will, I think, very "properly change it to say that you will de- "liver not just at the present handling charge, "but at the charge that may be fixed in respect "of handling, whether in the whole rate or not, "by a body competent to fix it."

That is what you are asking about a few minutes ago.

MR. NOLAN: No, no, this is very ancient history. This is putting me on the record in respect of what might be contained in the interim report and what my undertaking to the Commission carried with it in the rate that happend to be fixed by the Public Utilites Board.

MR. FRAWLEY: I am not quarreling as to

when you made it or for what purpose but the Chairman was asking if you had not altered your statement that this handling charge of yours would be a charge which might be fixed by a competent body. We have that now all in.

MR. NOLAN: I did that certainly.

THE CHAIRMAN: Volume what?

MR. FRAWLEY: Volume 56, page 6,879.

MAJOR LIPSETT: And that applied really to what was going through the pipeline at that time. I do not think it extended beyond that.

MR. NOLAN: I did not know of any other circumstances at that time and when was that statement made?

MR. FRAWLEY: Well Mr. Harvie's statement was made on the 9th of May.

MR. NOLAN: When was mine made.

MR. HARVIE: The same day.

MR. NOLAN: They started to take delivery on the 6th of May in the Valley, the Gas and Oil Products, so it was just about that time.

MR. FRAWLEY: Oh yes, here is the exact reference here, this is what you wanted, Mr. Chairman, and if you will make a note of it, I will give you Mr. Nolan's, at page 6,855. Now if you will add to that from Mr. Nolan, page 6,858, because this is what the Chairman says to Mr. Nolan:

"THE CHAIRMAN: And your statement varies "also, does it not, Mr. Nolan, in that you will, "I think, very properly change it to say that you

"will deliver not just at the present handling
"charge, but at the charge that may be fixed
"in respect of handling, whether in the whole
"rate or not, by a body competent to fix it.
"MR. NOLAN: Subject to whatever
"transportation, delivery and handling charges
"and regulations which are fixed.
"THE CHAIRMAN: Yes.
"MR. NOLAN: That is what you, the
"Chairman, wanted from me.
"THE CHAIRMAN: Yes, I think that is
"it, that makes something quite clear that is
"important."

And there might be, I will read it again;

"MR. NOLAN: Subject to whatever
"transportation, delivery and handling charges,
"and regulations which are fixed."

No doubt meaning which are fixed by regulation.

MR. NOLAN: The point is clear that I intended it to be whatever should be the regulated handling and delivery and transportation charges.

MAJOR LIPSETT: For the pipeline?

MR. NOLAN: For the pipeline.

MR. FRAWLEY: And then Mr. Harvie a few pages later refers to that and quotes it fully, he must have got it from the reporter, Mr. Harvie said:

"MR. HARVIE: Mr. Chairman, you have
"asked for a statement of policy of the British
"American Oil Company in regard to the sale of
"any surplus crude that it might have, not re-

"quired for its own requirements. I have had the "advantage of reading the statement made by Mr. "Nolan, and I am authorized to say that that "policy suggested by the Imperial would be agree- "able to the B. A., in all details with the one "exception, and that exception is necessary, I "think, Mr. Chairman, in view of the possibility "suggested in a remark of your own which I may "read from the transcript.

" "And your statement varies "also, does it not, Mr. Nolan, in that you will, "I think, very properly change it to say that you "will delivery not just at the present handling "charge, but at the charge that may be fixed in "respect of handling, whether in the whole rate or "not, by a body competent to fix it."

" My comment is, that as we "will be paying the whole rate, whatever it is, "to the pipe line company, if we are required to "sell we will need an additional loading charge. "otherwise we would be put at a decided disadvan- "tage. I think that is just another reason why "there should be a separate loading rate so that "we will be all on a similar basis. Have I made "muself clear on that point?

"THE CHAIRMAN: Yes."

I think that whole comment has reference rather to loading charges rather than to handling charges or brokerage applying in the field. I

will continue, I will read it right down to its end now:

"MR. HARVIE: The situation is this, "if there was one rate, we will say, established "to load into tank cars, which would be the same "rate as delivering into refinery tanks, to the "Royalite, we would have already paid on any oil "we have in storage for our refineries to the "Royalite a loading charge, inclusive in the one "rate. If we are required to take that out of "storage and sell to a third party, we would have "an additional loading charge which we should be "recompensed for.

"THE CHAIRMAN: We understand your state-"ment, Mr. Harvie.

"Q. MR. COMMISSIONER LIPSETT: Mr. Harvie, you "make one exception from the statement that Mr. "Nolan made, and I am just wondering whether "there is any real exception in it, and I was "going to put it to you in alternate ways. In "the first instance, on the assumption that "there is a transportation rate plus a loading "charge, in that event the Imperial would get "the loading charge that is fixed and you would "get the loading charge in exactly the same way?

"MR. HARVIE: Yes.

"MR. COMMISSIONER LIPSETT: That would be satis-"factory.

"MR. HARVIE: Yes.

"MR. COMMISSIONER LIPSETT: And the other alter-"native, if the loading charge were included in

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"the general rate then that would be done by
"the pipe line utility for you or for the
"Imperial would it not? I mean to say the
"Imperial would give an order to the pipe line
"company to load a tank car.
"MR. HARVIE: Of course I do not
"know ---
"MR. COMMISSIONER LIPSETT: Just a minute. You
"in the same way would give an order to load a
"tank car. It would cost you nothing. But pos-
"sibly you have another difficulty in mind that
"you could not do that. You would have to get
"the crude oil to your refinery first?
"MR. HARVIE: Exactly.
"MR. COMMISSIONER LIPSETT: Is that accurate, or
"could you not say to the pipe line utility to
"load a tank car for you for Saskatchewan or else-
"where?
"MR. HARVIE: I think the mechanics would
"be that we would be loading from our own storage
"in our own refinery. It may be only in that way
"we will know what surplus we have at all. There
"may be a situation arise where we get an order for
"a shipment to Saskatchewan to an independent re-
"finery, and if there was an all-inclusive rate
"that we would adopt the suggestion you made that
"we would load through the facilities supplied by
"the pipe line company. It would complicate mat-
"ters considerably as we contemplate all our pur-

"chases would be delivered to us at our refinery "site.

"MR. COMMISSIONER LIPSETT: In any event?

"MR. HARVIE: In any event, and I "suppose the same situation will arise with the "Imperial.

"THE CHAIRMAN: If a separate terminal "handling rate is recommended then your statement "is that of Mr. Nolan's?

"MR. HARVIE: Yes."

Then of course that does not complete it but I wonder if I have read sufficiently.

MR. HARVIE: I think that makes it quite apparent that the reference to handling charge there was for loading facilities other than a charge for service down in the field.

MR. FRAWLEY: Now Dr. Frey comments on these contracts and I want to read that, Volume 137, at page 15,342.

(Page 17,040 follows)

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" You asked me a question concerning the policy of oil
" companies in the matter of contracts with wells,
" leases and so on. And while I do not think there is
" any absolute right or wrong about the matter, I think
" it is generally a good principle that except where
" the crude purchasing company has a financial interest
" in the producing company, either by affiliations or
" marketing extensions, that it should contract for
" connections and purchases only on a well to well basis
" and not on a basis covering a large amount of acreage,
" except in special circumstances, and I think that those
" exceptional circumstances should be recognized. I
" think of a situation like this, where the construction
" of a pipe line requires a considerable supply of crude
" and where the producing companies, either as an
" individual company or as an association of producers,
" might approach someone for a pipe line. Under such a
" situation it seems to me that there would be an
" exception in which the pipe line company might very
" well consider that blocking out a very considerable
" volume would be necessary for the financial justifica-
" tion of construction. But in an established field
" it seems to me that it is a perfectly good principle
" and it is more or less followed, almost universally
" in the United States, that the purchases are made on
" a well to well or at least lease to lease arrangement.
" With that I think I have high-lighted my ideas on
" production, unless you have some further questions
" there.
" THE CHAIRMAN: No.

"Q MR. FRAWLEY: You did not say anything about
" the term of the contract you spoke about?
"A The term of the contract, I think that is more important
" to the industry and to the producers than it is to the
" State, and I can see a situation under which a lifetime
" contract would be highly desirable. I can also see
" situations under which it might be convenient. From the
" standpoint of conservation in the United States we
" wish under some circumstances that certain producing
" areas had lifetime contracts with pipe line companies
" because of the competition between fields. There is
" always a possibility of a marginal field losing its
" pipe line connection to a field with lower costs or
" better position or better crude. So that there would
" be a higher degree of protection for the producer if
" some of these producing areas really had lifetime
" contracts for the field, which would have to be lived
" up to by the pipe line company. The pipe line company,
" as a rule, is only the transporter, but very frequently,
" you will find, a purchasing company associated with a
" pipe line company and it exercises that contract
" relationship in the field. There are things to be
" said on both sides of it and I think the contracting
" parties should consider that as important to them,
" while it is not so important as a rule to the State,
" except in conservation, where, as I say, we wish
" that some were tied in. Fortunately, in some of our
" areas we have marginal producers or stripper wells in
" which the affiliate of the purchasing company has
" production and that helps save the situation because

" the producing company affiliated with the purchasing
" company wants to continue to move its crude into the
" market and that often saves the connections of the
" stripper wells that are not owned by the producing
" company. Is there anything else?
"Q THE CHAIRMAN: Apropos of that, as I understand
" it, you think it is well that contracts should be
" allowed to remain for the life of the well, but should

" be limited to a well at a time. I have just one
" more consideration. You say a well at a time unless
" in special circumstances?
"A Yes, Sir.
"Q Which you have outlined. Now, then, might there not
" be a circumstance the other way, that a pipe line
" company intending to build in this country where the
" Imperial will not, or does not, might be interfered
" with by reason of all the wells being tied up for the
" life of the wells, or all the then present wells?
"A That is a situation in which you have pipe line A
" against pipe line B.
"Q Yes?
"A In which pipe line A, having the prior position, has
" the assured crude.
"Q Yes?
"A And pipe line B tries to take away the crude.
"Q B tries to tie up to this line at this end to go to
" Regina, or the other end, to go right to the field.
" I just want to explore it for a minute as to whether
" or not that is not a stumbling block to pipe line

" extensions?

"A No, not necessarily, because we have to assume in the
" first place that the company that is doing the buying, if
" it has purchases beyond its requirements it is also
" anxious to sell. It does want to meet its requirements
" and it seems to me it is a perfectly legitimate thing
" for a company to try to keep its own pipe line just as
" close to full as possible and to have an assured source
" of supply for its refining operations. If there is an
" overage that company is just as anxious as any other
" producer to get rid of it.

"Q Now, let us say that the Imperial, as a matter of
" policy - and they are certainly entitled to define
" their own policy - should say "We are not now going
" to build a pipe line to Regina, and while it may be
" beneficial to producers and the people in Alberta,
" we do not think it is the proper time to build a
" pipe line to Regina." Now, another company exploring
" the idea as to whether or not it will construct a
" pipe line would be concerned with the consideration
" as to whether or not they will join up with the
" existing line of the Imperial or will put its own in.
" But supposing it proceeds to make the investment,
" what is to prevent the Imperial from then still
" putting its own in and putting all the oil through
" it that comes from the wells that it commands, and
" the man who spent the 50 million dollars finding
" himself with nothing for his money?

"A Well, I think that would be a foolish situation for
" both companies. In the first place I would assume

[illegible] bo assume [illegible]

[illegible] common [illegible] holding [illegible]

[illegible] be [illegible]

[illegible]

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" that either company would exercise good business
" judgment and that incident to the construction of a
" line that there would be justification for the
" movement of the quantity of crude that would make it
" possible for the line to operate effectively. Now,
" it would seem very unreasonable and highly unlikely
" that as between the two companies, regardless of which
" companies they are, that they would duplicate unless
" there were some reason for carrying a larger quantity
" of crude oil; and that if company B, the newcomer,
" offers the facilities of the transportation to
" company A, even though A is in a financial position
" to do the same thing as B, I very much doubt as a
" matter of good business whether there would be any
" duplication of such expensive facilities as a pipe
" line, particularly since it would be, let us say, a
" public utility, and there would not be any hope for
" unusual profits in the operation. So that it seems
" to me that just more or less horse sense defeats the
" possibility of duplicating expensive facilities.
" For what purpose? There would have to be some
" subservient purpose, certainly not a good business
" reason for putting in two lines where one would do
" the work, and I think it is hypothetical rather than
" practical.
"Q You think the tying up of all these oil wells might
" not deter the intending investor from putting a pipe
" line down?
"A Not if there is enough crude to justify the construction
" of a line, because I can hardly believe that any oil
" company would take the attitude that 'We have more oil

" than we need but we are not going to sell it.'
" There are many pipe lines in the United States not
" owned by producing companies or refining companies
" that are making use of them. There are only - I
" have forgotten the exact number from the Mid-Continent
" into the Chicago district - but I think there are
" three lines, and they are used by more or less everybody
" that is pumping out of that area. They were necessary
" at the time they were built. Right now they are not
" as necessary as they were because Illinois has upset
" things. But I very much doubt whether a pipe line
" company would build a line unless it was considered
" possible to amortize it and possibily make a rate on
" it. I do not think it would ever parallel a line or
" loop its own line unless there was sound engineering
" and economic reason for so doing. I cannot see that
" the fact that any company, Imperial or otherwise,
" occupies the No. 1 position in the field to-day,
" I do not see that it follows from that that there is
" not an opportunity for the construction of a
" private pipe line by someone else, if it is good
" business."

THE CHAIRMAN: Where did that end?

MR. FRAWLEY: That ends at page 15,347. That ends your discussion with him. There are just two or three more things, but I think I had better continue. I took up the discussion then.

"Q MR. FRAWLEY: And that company, Dr. Frey,
" assuming an independent company constructed the pipe
" line, they would very likely become the purchasers

" of the crude then to supply the requirements at the
" other end of the line?
"A Yes.
"Q Do you see any disadvantage at all, or do you regard it
" in any sense as an obstruction that that pipe line
" company would not be permitted to treat with the
" producers directly, but would have to treat with the
" Imperial, as is the case here?
"A I can see a theoretical obstruction but I do not believe
" there is a practical obstruction. That is to say that
" if a better connection is afforded, and that is a
" profit possibility for the producers, the producers
" would make it so hot for the Imperial that the Imperial
" would give up some of its connections regardless of the
" contractual relationship that they have now. I am
" not talking for Imperial. I am saying that considering
" the behaviour as I know it in the United States and
" translating it to Alberta, that is what would happen.
"Q Do you think it is quite fair and proper that the
" Imperial should have the right to impose a buying
" charge on any crude that this pipe line company might
" desire to purchase or contract for in the Turner Valley?
"A Well, I do not know about that. That is not a fact.
" If there were a condition of that sort then on examining
" the facts I think we could come to a conclusion as to
" whether that would be justified. That is to say,
" if such a connection as you speak of actually existed.
" We do not know whether that would be the situation with
" respect to the Imperial or other purchasers.
"Q Well, that is really why I brought it up, Dr. Frey.
" That is the situation. The Imperial-----

"A Well, with the present connection is it not?
"Q The situation is that the Imperial has advised the
" Government as follows: 'On the 27th of March the
" amount of crude produced in Turner Valley depends upon
" the Orders of the Conservation Board----'"

And then we adjourned for the lunch hour, and on the resumption, commencing at page 15,349 of the same Volume, he does deal wth with the matter of the contract at page 15,351. And that concludes all the discussion on these contracts and this buying charge. He then read the telegram and then said this.

" In that it seems to me that
" there is a recognition of the fact that the company
" acting as a buyer has buying expenses which down home
" we call 'brokerage' and up here in this telegram it is
" called 'plus pipeline buying and handling charges' and
" such expenses would be a general thing with us. This
" says nothing about how much they are. The question of
" reasonableness does not enter here because there is no
" specific charge mentioned, except that the buying and
" handling charges are involved, so that it seems to me
" that that does not destroy the position which I took
" earlier on this particular matter.
" The other thing is that, with
" any substantial number of disgruntled producers, it
" is hardly likely that a company would, in the face of
" that, in the face of that situation, continue a
" position that would be inimicable to its best interests
" in the long run and I would consequently be of the
" opinion that 'plus pipeline buying and handling charges'
" does not mean some exorbitant figure.
"Q MR. FRAWLEY: We understand each other, as I read

[illegible]

" that telegram it means 'plus pipeline charges, buying
" charges and handling charges,' that is as you read it,
" is it not?
"A Well I make a distinction between 'plus pipeline buying
" charges' and 'plus handling charges'. If there is no
" handling by the pipeline it does not seem to me there
" is any handling charge.
"Q But I mean, if you run the word 'pipeline' and 'buying'
" together; I read that telegram to mean 'plus pipeline
" charges, buying charges and handling charges'?
"A There are no commas.
"Q No commas, of course?
"A And under the circumstances it is difficult to be sure
" just what each word means but my interpretation is
" 'plus pipeline charges', 'plus buying charges', 'plus
" handling charges', parenthetically if those apply."

I think that is really all.

THE CHAIRMAN: What Volume is that?

MR. FRAWLEY: That is Volume 137, and that takes us down to the middle of page 15,352. He talks about the field end and there are only a few more lines and, perhaps, I had better continue with that. He says:

" parenthetically if those apply.
"Q Just let me add one thing more to your information.
" The pipeline charge is a public utility charge fixed
" by tariff passed by the ublic Utility Board; the
" handling charge is the same, so if there is any point
" in the thing at all, and I am not making any point of
" it, but if there is any point in it at all, it just
" leaves the one thing, the buying charge, to the company.
" The pipeline charge is something fixed by law, by the
" Public Utilities Board?

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"A Yes, and of course it does not follow that there
" would be a pipeline charge. It is entirely possible
" that if, as stated a little later, 'provided such
" purchaser supplies suitable facilities for ac epting
" delivery', that the point of delivery might be in the
" field and not at the end of the pipeline.
"Q That is true, and then there would be no pipeline charge
" but there would be a handling charge?
"A And a buying charge.
"Q A loading charge and a buying charge?
"A Yes, and what that buying charge is, it just does not
" say.
"Q No?
"A And all I can do is assume that it is within the realm
" of reason.
"Q Yes. Thank you very much, Dr. Frey."

Now that takes us to the top of Page 15,353.

THE CHAIRMAN: As I understand your neat submission with respect to all of this is that insofar as it has not now been committed to the Public Utilities Board it should be, to that Board or some other?

MR. FRAWLEY: That is precisely what I say.

THE CHAIRMAN: To settle these questions of charges, whether they be buying charges, handling charges or anything else.

MR. FRAWLEY: And brokerage charges.

THE CHAIRMAN: Which are not presently under the control of the Public Utilities Board.

MR. FRAWLEY: That is precisely what I say about that. Now I am going on to make some observations about the last subject matter in the general subject of discussion, and

that is Conservation. My remarks and submissions with respect to Conservation are going to be rather brief, Mr. Chairman. I want to direct you, for the record, to where you can nfind what Dr. Frey says about it, and we find he took the whole of Saturday, the 28th of October, Volume 134, to discuss Conservation.

THE CHAIRMAN: 134?

MR. FRAWLEY: 134, and it starts at page 14,932, and I think I am safe in saying that it went right through to the end of that Volume. Mr. Mahaffy's cross-examination commences at page 15,007. That goes into the next Volume, No. 135. Mr. Mahaffy's cross-examination commences at 15,007, which is just the commencement of the next Volume. Volume 135, on the 30th of October. Now, the next thing, - I think I will put it all together for you, Mr. Chairman - is in Volume 137, from which I have just been reading. Dr. Frey summarizes in Volume 137, at page 15,336-37. He is summarizing other things, but this is where he summarizes Conservation. And then he makes a final short reference to Conservation at page 15,349, in the same Volume, 137. Now, my position will, perforce, have to be a very simple one before the Commission. Dr. Frey made a very comprehensive statement and there has been nothing contrariwise presented to the Commission, because Mr. Mahaffy, I think, agreed in a large part - perhaps that is being a little too general in deciding what Mr. Mahaffy had to say - but I think as a casual observer he took a certain amount of comfort out of some of the observations of Dr. Frey, and, perhaps, found no particular fault to find with Dr. Frey's evidence. But with respect to those places in which Dr. Frey did not fully agree with the suggestions arising in Mr. Mahaffy's cross-examination, the evidence is fair and will very clearly explain it.

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My position simply is that the Commission might, in view of the fact there is no contrary evidence, probably be perfectly justified in accepting the principles of Conservation as laid down by Dr. Frey. I say that because I am in no sense appearing for the Conservation Board. Dr. Frey came as a very high authority in conservation matters. It seems to me what I am saying necessarily follows. But I am concerned with something of a practical nature and that is the attack of the Gas & Oil Products upon the Conservation Board really has to do with their difficulties as manufacturers and refiners of gasoline. After all, this is a practical thing to them and it is practical because it affects them in their refining operations. And they come to the Commission with their grievances and those grievances are, in a word, that they are not able by virtue of the restrictions placed upon these gas wells which supply the Gas & Oil Products manufacturing establishment, that they are not able by virtue of those restrictions to obtain enough natural gas to obtain in turn enough casing-head or, as they choose to call it, natural gasoline, to enable it in turn to carry on its ordinary refinery operations and compete in the market with the other companies serving this area. For that, it seems to me, is something real, something that can be determined by this Commission. What is the fact about that? Well, we have listened to the contentions of the Gas & Oil Products through their refinery superintendent and it was suggested and agreed to by everybody that Dr. Brown should be appealed to and, fortunately for the Commission, we now have for the consideration of the Commission Dr. Brown's views upon the problems submitted to him. And that is all contained in Exhibit "720",

[illegible] Commission right, in view [illegible]
[illegible] possibly be [illegible]
[illegible]

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which consists of the correspondence between myself nand Dr. Brown, ranging from the 13th of November to the 30th of November last, and I think I can do no more than-----

THE CHAIRMAN: What is your Exhibit Number, please?

MR. FRAWLEY: Exhibit "720". I take it now - perhaps I may ask finally, I take it there is to be no addition to that so far as you know, Mr. Harvie, speaking for your clients?

MR. HARVIE: I have not received anything further.

MR. FRAWLEY: I think the Exhibit stands without anything further to be added to it, and to paraphrase in a word what Dr. Brown says with respect to the question raised, whether or not, as appears from my letter to him of the 13th of November - and indeed it began a little earlier than that, and I must give you another Exhibit number. I must give you the correspondence which really in a sense might have been made a part of that, and it would have been more convenient. The correspondence which passed between Mr. Mahaffy's law firm and Dr. Brown, Exhibit "719". So you have it together. You have Exhibit "719" and "720" together. As you will recall, Mr. Mahaffy asked Dr. Brown by telegram for information indicating whether or not Dr. Brown agreed with his contention - it could not have been put more bluntly and more frankly, and that is the way it was put - that opinion being that in view of the climatic conditions in this country natural gasoline is required for blending purposes. Now, Dr. Brown replied, first by telegram and then by letter. He first said

"Re tel. Natural gasoline desirable for blending when
"economically available but not necessary to a modern
"refinery in Turner Valley."

He elaborated upon that in the letter of the same date, I take it the same date, to Messrs.

[illegible] correct [illegible]

[illegible]

[illegible] more than----

[illegible] Exhibit Forty, [illegible]

[illegible] take it [illegible]

[illegible] there is [illegible]

[illegible] today, speaking [illegible]

[illegible] received [illegible]

[illegible] Exhibits [illegible]

[illegible] to companies [illegible]

[illegible] question [illegible]

[illegible] of the 12th of [illegible]

[illegible] then, that, and I [illegible]

[illegible] give you the correspondence [illegible]

[illegible] in a sense [illegible]

[illegible] the correspondence [illegible]

[illegible] and Mr. [illegible]

[illegible] Do you [illegible] You have Exhibit "Y" [illegible]

and "YZO" together [illegible] recall, Mr. Flaherty [illegible]

[illegible] information indicating [illegible]

[illegible] with his correction - it could have [illegible]

[illegible] and that is [illegible]

[illegible] in view of the [illegible]

[illegible] question is required [illegible]

[illegible]

[illegible]

The [illegible] said [illegible]

[illegible]

Helman & Mahaffy, on the 4th of November. Now, he expands somewhat upon his telegram by saying:

"Natural gasoline is an economic and profitable raw "material to be used in the refining and production of "motor fuel under the conditions which I assume to exist "in the calculations made for the McGillivray Commission "and on which my testimony was based.

" If the price of natural gasoline is too high, "or if the material is not available, a modern refinery "is able to produce a satisfactory product without "requiring any natural gasoline for blending. "In other words, it is simply an economic question. "whether natural gasoline is to be used or not."

We did not think that made it as clear as we wanted it so we wrote and asked him to go more fully into it. We asked first:

"I wish you would define your use of the word 'satisfactory'"

referring to his correspondence with Helman & Mahaffy.

"If you mean a motor fuel could be made which will operate "satisfactorily in a motor car, that is one thing, but if "you mean that a product of equality and volatility "equivalent to Sky-Chief could be made without casing- "head, that is quite another. I think, therefore, that "you should elaborate somewhat on the use of the word "'satisfactory'".

Then we asked him to say something more about his statement in the letter to Helman & Mahaffy, that

"It is simply an economic question whether natural gasoline "is to be used or not. What I now require is some "information from you to indicate the economic effect of "dispensing with the use of casing-head in a modern

"refinery."

Then he did reply, and in his letter of the 21st of November he spoke about the additional cost if natural gasoline were not purchased its profit would be wholly lacking and so on. But this is the paragraph. He says:

" Based on the distribution of the various products now
"being manufactured for the Alberta district, I feel sure
"that a modern plant will be able to produce gasoline of
"premium quality, standard quality and third structure -"

and we know that those mean gasolines in the Imperial picture such as Esso, being premium quality; 3 Star, being standard quality, and Acto, being third structure -

"without the use of natural gasoline that will in every
"way be comparable to the qualities of the similar
"products now being produced with the use of 5% of
"natural gasoline."

Those were, incidentally, Imperial products, because you remember we have in evidence that the Imperial is only using 5% of casing-head in their refinery in East Calgary.

" In other words, the use of my term 'satisfactory
"product' was intended to mean an equally satisfactory
"product to that which can be produced when using the
"natural gasoline."

Now, I put it to the Commission that he means that - because he had at that time my letter before him in which I had gone to the trouble of naming a gasoline which is much talked about, Sky-Chief - it was unfortunate that the letter as it went to him did not use the word "quality," but said "equality". The letter, as it went to him, said

" But if you mean that a product of equality and
"volatility equivalent to Sky-Chief could be made
"without casing-head that is quite another".

I take it that Dr. Brown, when he read that, he would understand that was a stenographer's error, "equality", What was dictated to the stenographer was "quality" but she had it "equality". He must have had that in mind when he answered my letter in the way I have read to you, and I say, respectfully, there can only be one inference from what he meant, and that was that Sky-Chief gasoline, or gasoline of that quality, could be manufactured. We said Sky-Chief, incidentally, because that was the gasoline that Mr. Boyd talked about and, as a matter of fact, he filed an Exhibit indicating his new Ethyl gasoline put down side by said against Sky-Chief, and that is why we said Sky-Chief. Not with any desire to do the Texas Company any good. Then I submit respectfully, that Dr. Brown means that, he means that Mr. Mahaffy's people could make a gasoline without any casing-head of the kind and quality as satisfactory and as able to compete in the market.

THE CHAIRMAN: At a price.

MR. FRAWLEY: Without the use of natural gasoline. Now then, at a price. As to that I say this, as to there being any difference in refinery costs or earnings, Dr. Brown, using the Imperial's new operation as his basis, gives it as his opinion, and this is paraphrased for me by Mr. Cottle of the correspondence, gives it as his opinion that the only result of operating without natural gasoline is the loss of the profit on the sale of the natural gasoline as an ingredient of the finished gasoline, and that the loss of this profit is almost entirely compensated for from the

profit on running the additional barrellage of crude required to produce the same amount of gasoline. In the final result Dr. Brown estimates a decrease in nett profit of 1%.

Now, is that clear. That is what we take as the nett result of the correspondence with Dr. Brown.

THE CHAIRMAN: 1% of what?

MR. FRAWLEY: Decrease in the nett earnings of 1%.

MR. MAHAFFY: That is assuming that the refiner is paying $2.14 a barrel for casing-head and not assuming that he takes it at cost.

MR. FRAWLEY: That is assuming that the Imperial Oil Company refinery pays the Royalite Oil Company $2.14 for its casing-head. Quite right. And as far as we know that is the actual and simple fact. If Mr. Mahaffy alludes to, as he doubtless does, the fact that Royalite is owned to the extent of 70% by Imperial and that, therefore, there is some advantage to Imperial qua shareholder of Royalite----

MR. COTTLE: I think what Mr. Mahaffy is referring to is that the manufacture of less casing-head involves a loss of the profit on the manufacture of casing-head in his client's plant.

MR. MAHAFFY: Not only that. I do not want to be interrupting-----

MR. FRAWLEY: That is all right, you bring it out.

THE CHAIRMAN: Well, after lunch, Mr. Mahaffy.

(At this stage the Hearing was adjourned until 2:00 P. M.)

. . . .

2.00 P. M. Session

MR. FRAWLEY: Before I resume Mr. Nolan tells me he now has some word from Mr. LeSueur.

MR. NOLAN: Yes, as I promised, Mr. Chairman, I telegraphed Mr. LeSueur last night and set out in the wire what I called "your appreciation of his evidence" which he had given here in respect to the posted field price and that your understanding was that he had not either expressly or impliedly suggested to this Commission that that increase of that 8 cents would have any effect on the tank wagon prices. I have been speaking to Mr. LeSueur during the interval and he informs me that your appreciation of his evidence is entirely correct and that the change in the posted field price will not affect the tank wagon price.

MR. FRAWLEY: Now, Mr. Chairman, before we adjourned we had reached a consideration of Dr. Frey's Exhibit "720". I was saying that in the net result Dr. Frey's opinion was that the only result of operating without natural gasoline is a loss in the profit on the sale of the natural gasoline as an ingredient of the finished gasoline and that the loss of this profit is almost entirely compensated for from the profit on running the additional barrellage of crude required to produce the same amount of gasoline and in the final result that there was in his estimate only a decrease in net profits of 1%, so you will know what that is, in figures it means that of Imperial's profit of $710,000.00 there would be a lost of $7,000, so that is all that means.

Now Mr. Mahaffy interjected just before adjournment that that looked at the Imperial as a

manufacturer, a refiner, that purchased natural gasoline at $2.14 per barrel, being the posted field price and before Mr. Mahaffy interjects to say something more about that, as I take it he will, let me say what I appreciate Mr. Mahaffy's position to be, that his client loses two profits, one as a refiner and blender, the thing that Dr. Brown is talking about and that that profit is, in Dr. Brown's opinion, and he is thinking of Gas & Oil Products, is almost compensated for by the extra crude run, taking it that the Gas & Oil Products ---

THE CHAIRMAN: You say he loses two profits, what is the first one?

MR. FRAWLEY: That is as a refiner and blender, the profit on blending the casing head and gasoline and selling it as gasoline; the one that Dr. Brown is talking about and that Dr. Brown says is made up by running more crude.

THE CHAIRMAN: The Imperial would lose one percent of its profits?

MR. FRAWLEY: Yes, and the second one is the profit which Mr. Mahaffy's client would lose as a producer of gasoline. They lose whatever profit, - and we do not know anything about it but we assume there is a profit, - whatever profit is provided by the posted field price of $2.14 per barrel on natural gasoline, am I right in that, that is the situation?

MR. MAHAFFY: Yes.

MR. FRAWLEY: Mr. Mahaffy agrees with me, that I appreciate his position. Well, of course as to that, we do not know anything about that and I submit while the two operations are under the one company, that Mr. Nolan's client might say, "Well you might also consider that the Royalite loses

whatever profit is caused by the natural gasoline." Now those were things which were not submitted to Dr. Brown and it is just a circumstance that Mr. Mahaffy's client under one roof makes himself natural gasoline and probably enjoys a profit, we do not know how much or how little, but I think we can safely assume that he enjoys a profit; well that is something, of course, because if there is no natural gasoline then that is part of my friend's operations but that is just a circumstance.

THE CHAIRMAN: Is that made possible, does this manufacture of natural gasoline not require a plant and a capital investment, to manufacture that?

MR. FRAWLEY: Oh, yes, he has, that is separate you might say, of course.

THE CHAIRMAN: He couldn't get his natural gasoline, he not only loses his profit, as I am following you, on the manufacture of natural gasoline but he would also lose the capital investment which is made.

MR. FRAWLEY: Oh,yes.

THE CHAIRMAN: In order to manufacture that natural gasoline.

MR. FRAWLEY: All the circumstances which would attend that, the discontinuance of the manufacture of natural gasoline, quite so.

THE CHAIRMAN: As I remember ----

MR. FRAWLEY: That is right.

THE CHAIRMAN: Just speaking from memory of Mr. Mayland's evidence, I thought he rather stressed the investment he made in that plant.

MR. FRAWLEY: Yes, I suppose that is where it comes

in but perhaps it should be borne in mind, along with that, that the Royalite Oil Company would be in the same position with respect to one of its plants.

THE CHAIRMAN: Oh, yes.

MR. FRAWLEY: And then the British American too, with respect to its only plant but I think that is what happens. I think, one Dr. Brown has not dealt with because it was not proposed to him but it is a very simple thing but I think we all agree and Mr. Mahaffy agrees that that is his position, he may want to elaborate on that and this may be the proper time, unless he has said everything that he wants to say.

MR. MAHAFFY: I think I have said everything in the argument I submitted but I do want to make it clear that Mr. Frawley in reading the statement that he did this morning points out that in Dr. Brown's view there is very little difference in the profit position but that is based on prices for natural gasoline set out in Dr. Brown's letter. He points out that a refiner would not be justified in using natural gasoline if he had to pay more than $2.60 a barrel for the products; he would be better off to go ahead and put in a little more expensive cracking operation but the fact is, as I state in our argument, that treating Imperial-Royalite for a moment as a unit, that product does not cost Imperial-Royalite the figures set out in Dr. Brown's letter nor does it cost us that amount of money and then sliding from there to the competitive position if Imperial-Royalite is allowed, as they must be, if they have a supply available, if they are allowed to continue the use of that product and we on the other hand are excluded, then Mr. Boyd says and Mr. Mayland says that

we cannot hope to maintain the competitive position. I just want to make it plain that when Mr. Frawley talks about 1% difference in profit, those figures are based on what one might say is an arbitrary price for natural gasoline, which is not the fact, the price which it costs us ---

MR. FRAWLEY: Of course, I presume the obvious answer to that is that we here in this Commission know the Imperial as a refiner and manufacturer and as a purchaser and paying in cash for its casing head at $2.14. Now we know that and on that there is no possible question and if that results in a handsome profit or any kind of a profit to the Royalite that is something which it seems to me, which just follows, and which does not concern the Commission. We do know that those profits are there, that the Royalite has enjoyed a very fine position in this oil industry but they do not come before us, that company does not come before us as a manufacturer of gasoline and it only happens that your operations are all bound up in one company but Mr. Nolan's operations are quite segregated and while what Mr. Mahaffy says is one way of looking at it, and I am not here to defend the Royalite or the Imperial but I just want to make it plain that in the presentation before this Commission of everybody, the Companies, Mr. Nolan's companies and Dr. Brown, we have acknowledged the distinct identity of the two companies one from the other and it is all very well for my friend to say, and I understand him when he says it, the Imperial-Royalite organization, but you are getting into fractions and percentages there but however I think perhaps there has been all said about it that can be said and I think it is plainly before the Commission now. Dr. Brown's views and my friend's

[illegible]

[illegible]

[illegible]

contention and my exposition of it.

THE CHAIRMAN: It is common ground is it, that Dr. Brown does not consider any loss in any of the capital for operating with regard to the manufacture of natural gasoline.

MR. FRAWLEY: That is quite so;

THE CHAIRMAN: In other words he has not had the Royalite operation presented to him nor the Gas & Oil Products natural gasoline manufacture.

MR. COTTLE: In other words, he approached the problem solely from the point of the refiner. He has not considered the point of view of the natural gasoline manufacturer.

THE CHAIRMAN: May I ask, has he regarded, from the standpoint of the Gas & Oil Products that they purchase casing head at $2.14 for its natural gasoline department?

MR. COTTLE: Quite.

MR. FRAWLEY: Yes. That I think, that is the issue I think, Mr. Mahaffy says, "We do not buy it."

THE CHAIRMAN: Well now, you speak of manufacturing natural gasoline, does the refinery's function, would it not be a matter of refining to get the natural gasoline that you put on the market?

MR. FRAWLEY: You see as I understand it, Mr. Cottle can speak more completely, it is something which is bought like a crude oil, it is a material.

MR. COTTLE: It is an unrefined material and it is sold on the basis of its vapor pressure. Before the refiner gets to it he has to stabilize it.

THE CHAIRMAN: When you speak of manufacturing, what does that mean?

MR. COTTLE: That means extracting the natural gasoline from the natural gas in the field.

MR. FRAWLEY: Perhaps it is not the best word but it is a distinct operation which results in this material.

THE CHAIRMAN: Oh, yes.

MR. FRAWLEY: So that is all I can say, that presents the natural gasoline issue raised by Gas & Oil Products I think quite clearly and probably sufficiently for the determination of the Commission.

Now I want to proceed to discuss "Refining" with the Commission and I am very sorry that I find that my Refining Memorandum is down stairs. I will only be two minutes in getting it.

THE CHAIRMAN: You have nothing more to say about this Conservation or do you come back to it or what?

MR. FRAWLEY: No, I do not come back to it and as I say, all I can do is to read to the Commission, and I am sure you do not want me to do that ---

THE CHAIRMAN: No.

MR. FRAWLEY: What Dr. Frey said. There is one little final statement summing up what he said but it is there and readily available to the Commission to read.

THE CHAIRMAN: Yes.

MR. FRAWLEY: Turning now, Mr. Chairman and Mr. Commissioner, to a consideration of the next problem and that is of "Refining", I first would like to simply list --

THE CHAIRMAN: Mr. Frawley, what is your submission on Conservation? We follow Dr. Frey, is that correct, in any recommendation which we see fit to make?

MR. FRAWLEY: I think I have to agree to that,

that that must be my submission, that Dr. Frey has made recommendations to the Commission and there is nothing contrary presented. If one had any word of criticism of Dr. Frey at all it is only in those places where he talks about the legal requirements of a Statute. I think in one place, Mr. Chairman, he said he thought that there must be or should be a statement of policy, a declaration of policy. Now in my reading of the American Statutes that is something which always goes in there. We do not have that. I remember in the Privy Council last summer, the Privy Council reading a section of that kind in the Social Credit Act and wondering about it perhaps, putting it mildly, wondering about what it meant and it was just a declaration of policy and it is rather extraneous to find in a Canadian Statute, - but that is not very important but that is one thing that Dr. Frey does suggest in which he may be applying too literally for the consideration of this Commission, considerations in the making of Statutues; that applies in these American Unions.

THE CHAIRMAN: Now I do not, I must say that I do not think he was referring so much to the workings of the Legislative Council as to what form these Statutes should take but rather that the Body that was to administer under the Statute should have enunciated precisely what its duties were.

MR. FRAWLEY: Quite.

THE CHAIRMAN: Its duties and powers, in short, it is not set up at all as a despot and told to go it blind, perhaps getting a wrong impression, that is what I gathered.

MR. HARVIE: It states in Volume 137, Page 15,336 that the Conservation Agency should be given broad powers but it should also be furnished with a number of important directions; firstly, a clear cut declaration of policy ----

THE CHAIRMAN: Volume 137 at what?

MR. FRAWLEY: You had that very reference this morning, Pages 15,336 and 15,337:

"There should be a clear-cut understandable declaration "of policy. There should be definitions as to what "constitutes waste."

Now I think it was there perhaps he was thinking, I do not know, that in our Statutes we need to define "waste". I presume that we could, that may be a question of Dr. Frey's opinion of what is or is not right. I presume the Legislature could delegate to the regulatory body, this Conservation Body, the power to define waste. Now if Dr. Frey means that that is one thing but if he means that the Legislature should do it that is another thing.

THE CHAIRMAN: Do you not think he means ---

MR. FRAWLEY: There should be definitions.

THE CHAIRMAN: You see supposing that we say, supposing the Legislature said, "Well we perhaps have not the special knowledge."

MR. FRAWLEY: That is right.

THE CHAIRMAN: "But we delegate to the Board we are setting up that we think has special knowledge or will acquire it,, the power to determine what is waste."

MR. FRAWLEY: That is right.

THE CHAIRMAN: But is there not something more

involved, not only should the Board decide what is waste but that everybody who may come under the orders of the Board should know what precisely waste is.

MR. FRAWLEY: Well, yes.

THE CHAIRMAN: That amounts to saying, the Board might think something waste today and something else tomorrow; they might be quite whimsical about it all. It struck me that the Doctor intended to convey the impression that it should be known exactly what waste is, to everybody.

MR. FRAWLEY: Yes, if, as and when the Board under these delegated powers arrive at a definition of waste, that that should be known.

THE CHAIRMAN: Yes.

MR. FRAWLEY: And it should stand, as it were, until there was some necessary modification of it.

THE CHAIRMAN: Yes.

MR. FRAWLEY: I do not think he could have meant anything more than that because frankly, as you have intimated, I do not think the Legislature should be dabbling around and defining waste. They do not know anything about it. They would have to necessarily adopt somebody's opinion about it. We may as well face realities there so that that important question, and it is an important question, that question of waste, it is very vital because it is part of the attack which has been made or part of the objection which has been made to the Board here, that is one of the vital things, is Mr. Mahaffy's client doing waste?

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MR. FRAWLEY: Now just as a mere matter of mechanics and procedure, it seems to me better to have a Board define that in its wisdom than the Legislature, and I would think that is all Dr. Frey meant. If he meant anything more than that; if he meant it should go into the Statutes, I think I would have to very respectfully suggest that the Commission disagree with him in that respect, knowing what we do about, what shall I say, the imperfections of Legislatures and the lack of precise and technical knowledge of Legislatures to very intelligently, of its own knowledge, define waste.

THE CHAIRMAN: Dr. Frey gave us a number of special statutes, one of which received his blessing, as I remember.

MR. FRAWLEY: Exhibit "672" is the Arkansas Oil & Gas Conservation Law. That is Act Number 105 of 1939.

THE CHAIRMAN: What are the others, do you remember, Mr.Frawley?

MR. FRAWLEY: In that general connection....

THE CHAIRMAN: He sent in some later do you remember?

MR. FRAWLEY: He sent in something later which I will find for you now. He sent us in the Cole Bill, Exhibit "700". And the Code of Fair Competition for the Petroleum Industry, Exhibit "701". He also sent us at the same time Exhibit "699", The Final Report of the Marketing Division, Petroleum Administrative Board. But it may very well be that in this Arkansas Bill waste is defined. No, waste is not defined. Ah! Waste of oil and gas as

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defined in this Act is hereby prohibited. So it is defined.

THE CHAIRMAN: Yes.

MR. FRAWLEY: It is defined.

THE CHAIRMAN: It is purely arguable as to whether or not it should not be - that is as to whether or not the Legislature, having decided to give the stamp of its approval to Conservation, it should not be concerned with what its appointees are going to do. I just say it is arguable.

MR.NOLAN: It seems to be perfectly clear from what Dr.Brown's evidence is. There should be a clear-cut understandable declaration of policy, which should serve the operations of the Conservation Board, and there should be, amongst other declarations of policy, one for example, defining what would be considered to be waste. There should be a clear-cut understandable declaration of policy. The Board should be furnished with a number of important directions and there should be definitions as to what constitutes waste or what constitutes the other factors included in the broad declaration of policy. The conservation agency should be directed what to look for. It should also be directed what to act on, that is the things it must do in order to be sure that everyone has an opportunity, everyone who has an interest has an opportunity at equitable adjustments."

MR. FRAWLEY: You see, being very specific about the definition of "waste".

THE CHAIRMAN: That is Page 15,336?

MR. NOLAN: Page 15,336 in Volume 137.

MR. FRAWLEY: Waste is defined in the

Arkansas law, and perhaps it is just as well the question was raised. Let me read the definition. My submission is it is a very rigid thing. The Legislature speaks and it has spoken for a year.

"I. "Waste" in addition to its ordinary meaning,
" shall mean "physical waste" as that term is
" generally understood in the oil and gas industry.
" It shall include:-
" (1) The inefficient, excessive or improper
" use or dissipation of reservoir energy; and the
" locating, spacing, drilling, equipping, operating
" or producing of any oil or gas well or wells in a
" manner which results, or tends to result, in
" reducing the quantity of oil or gas ultimately
" to be recovered from any pool in this state.

" (2) The inefficient storing of oil; and the
" locating, spacing, drilling, equipping,
" "operating or producing of any oil or gas well
" or wells in a manner causing, or tending to cause,
" unnecessary or excessive surface loss or destruction
" of oil or gas.

" (3) Abuse of the correlative rights and opportunities
" of each owner of oil and gas in a common reservoir
" due to non-uniform, disproportionate, and unrateable
" withdrawals causing undue drainage between tracts
" of land.

" (4) Producing oil or gas in such manner as to cause
" unnecessary water channeling or coning.

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" (5) The operation of any oil well or wells with an
" inefficient gas-oil ratio.
"
" (6) The drowning with water of any stratum or part
" thereof capable of producing oil or gas.

" (7) Underground waste however caused and whether or
" not defined.

" (8) The creation of unnecessary fire hazards.

" (9) The escape into the open air, from a well producing
" both oil and gas, of gas in excess of the amount which
" is necessary in the efficient drilling or operation of
" the well.

" (10) The use of gas for the manufacture of carbon black.

" (11) Permitting gas produced from a gas well to escape
" into the air,"

Now, Mr. Chairman, I am not suggesting that all of these things are not properly definable as waste. I just say that if that definition went into a Statute of this Province without some sort of an omnibus clause at the end, that that would be a little rigid. I do not know that we would want that number 10. at all. "The use of natural gas for the manufacture of carbon black." It may be in this Province the manufacture of carbon black should be encouraged from gas. I am just speculating about that. If, in the State of Arkansas carbon black ecannot be manufactured from gas - I think there was at one time a little endeavour in the Craigmyle district where there was thought to be a gas supply and

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someone thought carbon black could be manufactured out there. In the State of Arkansas it cannot be apparently. Well, all of these things may be proper and reasonable and not too restrictive at all, but I would rather see that delegated to the Conservation Board to define "waste".

Now in the Cole Act, which is Exhibit "700", this is the Federal Act. Sub-section 5, the Federal Cole Bill, Section 5 says:-

THE CHAIRMAN: Which is that?

MR. FRAWLEY: The Federal Bill, Exhibit #700" Mr. Chairman.

THE CHAIRMAN: The other was "672" was it?

MR. FRAWLEY: Exhibit "672" was the Arkansas State Act.

THE CHAIRMAN: Is that the one that Dr. Frey rather praised, the Arkansas one?

MR. FRAWLEY: That was the one all right that he referred to and I think he did refer to it in some such terms as it was up-to-date.

MR. NOLAN: I thought he said the general characteristics of the Arkansas plan were to be found in the Act now in the Congress of the United States?

MR. FRAWLEY: That would be the Cole Bill. That is he could see some similarity in the principles between the two Acts.

MR. NOLAN: Yes, I think he brought out that fact.

MR. FRAWLEY: Well, (a).

"(a) The Commissioner is authorized and empowered "to investigate the conditions of petroleum production

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"in all fields within the United States, including
"fields which may be discovered hereafter, to
"determine whether or not the methods and practices
"employed in the recovery of petroleum from deposits
"thereof, and in operations precedent thereto and
"attendant thereon, are effective in preventing the
"avoidable physical waste of crude oil and the
"avoidable waste of reservoir energy available for
"the recovery of crude oil. Such investigations
"shall be made in such sequence as may be feasible
"and from time to time as the Commissioner shall
"determine to be necessary.

"(b) Within the meaning of subsection (a) of this
"section:-

" (1) Physical waste of crude oil shall be
" deemed to include the loss or destruction of
" crude oil after recovery thereof such as to
" prevent its application to useful purposes,
" and the entrapment or isolation of crude
" oil through irregular or premature encroachment
" of water, the loss or dissipation underground
" of crude oil or natural gas, and the premature
" release of natural gas from solution in crude
" oil, all such as to render impracticable the
" recovery of such crude oil.

" (2) Waste of reservoir energy shall be deemed
" to include the use or dissipation of such energy,
" either as gas energy, hydrostatic energy, or other
" natural energy, at any time at a rate or in a
" manner which would result in the exhaustion of

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" the energy available for the recovery of crude
" oil prior to the recovery of the ultimate quantity
" of crude oil which such energy would be or might
" be made effective in recovering or rendoring
" recoverable. Reservoir energy available for the
" recovery of crude oil shall be deemed to include
" that natural energy existent in any deposit
" containing crude oil in the recovery of which such
" energy may be made effective.

"(c) In making the determination required in sub-
"section (a) of this section, the Commissioner shall
"consider, for each field as a whole and for the several
"parts thereof, such information as may be obtainable
"as to:-

" (1) to porosity, permeability, and other
" characteristics of the deposit or deposits.
" (2) the nature and character of the reservoir
" energy;
" (3) well spacing, drilling practices, well
" casing and well completions;
" (4) the rate of decline in reservoir pressure
" per unit of crude oil produced;
" (5) the ratio of natural gas production to
" the amount of crude oil produced;
" (6) the rate and manner of water encroachment
" within the productive formations;
" (7) the ratio of production of crude oil to
" estimated reserves;
" (8) the methods of well completion, presence
" of gas caps, and presence of gas-bearing zones

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" open to any well;

" (9) conditions of storage of crude oil

" recovered; and

" (10) other characteristics and conditions of

" the source of supply and production therefrom."

Now going on to Section 6 (a):-

"Sec. 6 (a) If, upon investigation of any field, "the Commissioner shall find that the methods and "practices then employed therein are effective in "preventing avoidable waste, as waste is defined "in sub-section (b) of Section 5 of this Act, and "shall have no reason to believethat methods or "practices which will result in avoidable waste are "about to be employed therein, he shall issue his "finding to that effect, The Commissioner shall "make known such finding to the State agency charged "with the regulation of petroleum development and "production, or to the governor where there is no "such agency, of the State or States wherein such "field is situated, and shall cause such other pub-"licity to be given such finding as he shall deem "advisable. Such field shall be subject to subsequent "similar investigation to be made at such time or "times as the Commissioner shall deem necessary.

" (b) If, upon investigation of any field, the "Commissioner shall find that methods and practices "employed therein, or which he shall have reason to "believe are about to be employed therein, are not "effective in preventing avoidable waste, as waste

"is defined in subsection (b) of section 5 of this "Act, he shall issue his findings of fact, and "shall by regulation designate and define with "particularity those methods and practices which "he shall find to be wasteful. The Commissioner "shall make known his findings of fact to the State "agency charged with the regulation of petroleum "development and production, or to the governor "where there is no such agency, of the State or "States wherein such field is situated. In the "promulgation of regulations under this section "the Commissioner shall consider and make proper "provision concerning, among others, the following "factors of waste:

" (1) The spacing, location, drilling, completion, " or production of any well or wells so as to cause " waste of reservoir energy.

" (2) The loss by escape into the air or by wasteful " burning of natural gas.

" (3) The loss by evaporation, exposure, or wasteful " burning of crude oil.

" (4) The existence or creation of fire hazards.

" (5) The drowning with water of any stratum capable " of producing crude oil or natural gas, or both.

" (6) The escape of crude oil from a productive " formation through drainage, seepage, or uncon- " trolled migration.

" (7) The premature release of natural gas from " solution in crude oil.

" (8) The operation of any well producing crude " oil with an inefficient gas-oil ratio.

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" (9) The inefficient, excessive, or improper
" use of reservoir energy.
" (10) The excessive production of natural gas
" alone or in conjunction with crude oil from a
" source of supply containing both even though
" such natural gas is used or transported for
" use in the generation of light, heat, or power,
" or for other purposes.
" (11) The abandonment of any well in such manner
" as to render any crude oil unrecoverable or
" reservoir energy unavailable for the recovery of
" crude oil.
"
" (c) In the investigation of the methods and practices
"employed in any field, the Commissioner shall consider
"the following, or any one of them, to be prima facie
"evidence of avoidable waste:
" (1) The operation of any flowing well producing
" either crude oil or natural gas, or both,
" substantially at its open-flow capacity;
" (2) The production of crude oil from any flowing
" well in any field at a rate which, in its relation-
" ship to the known crude-oil reserves of said well
" or field, is substantially in excess of the rate of
" production in relationship to reserves in other
" fields in which the Commissioner has found, under
" subsection (a) of Section 6 of this Act, that the
" methods and practices therein employed are effective
" in preventing avoidable waste;
" (3) Subsequent to one year after the effective
" date of this Act, the production of crude oil or

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" natural gas, or both, from any field subject
" to investigation under this Act without the
" concurrent and reasonably accurate determin-
" ation, by the producers in said field."

You see the difficulty with us here, Sir, in this Commission is, that we do not know what the present Conservation Board is doing. We have not had the Act present, presented to the Commission even as a basis of the legislation - well yes, Mr. Nolan has done that because that is probably in the black book. But that is all. We have not had anybody from the Board.

THE CHAIRMAN: Of course we can look at the Statute which will be of interest to us anyway.

MR. FRAWLEY: Yes, but we do not know whether or not in the modus operandi of the Board's orders and their work from day to day, they have present in their minds these things, or any one of them. It may be that they have present in their minds all of these things in the Arkansas Act.

THE CHAIRMAN: The point I am making for your consideration and submission is that it is not so important what they have in their minds as that they have a concrete declaration as to what is in their minds and the whole public know about it; that everything they do is in pursuance to a declared plan.

MR. FRAWLEY: Being a plan of their own creation or created for them by the Legislature it does not matter.

THE CHAIRMAN: Whether of their own or of the Legislature. We have no particular views about it,

of course. But I am saying I got from Dr. Frey that there must not be anything that is locked in the minds of the Conservation Board that those who may have any interest, directly or indirectly, may not have access to. Is that the way you interpret it?

MR. FRAWLEY: I think listening to him that is a fair statement to make, yes.

THE CHAIRMAN: You see you have a Statute which is very general in its character, and we know precisely nothing about what is being done under him. Certainly the suggestion is from those who have spoken that they do not get to know.

MR. FRAWLEY: Yes, you see.....

THE CHAIRMAN: That is not a criticism, but it is talking about what is a constructive thing for the future. And I am asking if you think Dr. Frey's evidence carries you that far or it does not.

MR. FRAWLEY: You see it is almost obvious and I need not state it, but it is somewhat embarrassing for me because I think with respect to each and every other issue that has come before the Commission there have been two cases presented and I have been ~~the~~ in the fortunate position where I have merely left to comment, only for the assistance of the Commission upon the two submissions; upon the two contentions.

THE CHAIRMAN: I think perhaps you do your full duty by directing us to what Dr. Frey has said, and stating that it is your submission that he should be followed, with the exception as to the declaration of policy by the Legislature which may not have special knowledge to justify the declaration as distinguished

from delegating it to a body that either has or should be able to get the special knowledge.

MR. FRAWLEY: That is right, Mr. Chairman. Now coming to the question of refining. I first want to just simply state to the Commission who are the people refining in this Province, more largely for the purposes of eliminating them, in company with Dr. Brown, because that is what Dr. Brown has done. He has, for the reasons I will give you, eliminated them all from his consideration except the Imperial Oil Company. We have in this area the Imperial Oil Limited, British American Oil Company, Gas & Oil Products Limited, Lion Oils Limited, Becker Oil Company and one or two other small refineries which are hardly worth mentioning. Certainly we have no record of them at all. We know Mr. Munro is operating a small refinery near Calgary. Mr. Huff is operating a small operation on Montana crude at Lethbridge. We know at one time there was a refinery operation at Red Deer, but my latest information is that has now been abandoned. Then we have the Wainwright operation, of course, that we have not gone into at all, for the very good reason and justifiable reason they have nothing at all to do with arriving at the cost of refining, which is the answer that the Commission must make to the Lieutenant-Governor-in-Council.

Now with respect to these other companies I am merely going to point the Commission to where their evidence is. In view of Dr. Brown's evidence, which I am bound to accept, I see no very great value in the Commission spending any time really in exploring the other operations. But there is the Becker operation. That evidence will be found - and I put it into

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the record - in Volumes 110, 115, and 116. We have in Volume 110 the witnesses Sadleir and Becker. In Volume 115 we have the witness Becker, and in Volume 116 a short appearance of a witness Gibb. The exhibits containing the information with respect to the Becker operation are Exhibits "593" and "594". In addition to that I need only say that that was in 1938 a skimming plant operation and very small volume, small in the whole Provincial picture. I say skimming operations. I do recall that Mr. Becker insisted he had a small - he was not pressing it on us at all, but he did say he had a small cracking plant and so as a result of that statement......

THE CHAIRMAN: A rather home-made affair, as I understand it?

MR. FRAWLEY: Yes, a small little cracking plant. I was so struck with that, because I had always been taught there was no cracking plant in this Province except the Imperial's and the British American's, until the other day Mr. Mayland started, but I certainly had to explore that. So we arranged with Mr. Becker and he was good enough to permit the Ethyl Gasoline Corporation to take a sample of his gasoline which he called his cracked gasoline, and which we found was being sold across the street in Eaton's yard, and when the analysis came back we found the gasoline he is selling incidentally in the regular structure only has an octane of 63. Well that is not for me to say he should not be selling it in the second structure. Let him sell it if he can. That is competition again.

THE CHAIRMAN: I suppose you are going

to speak about standards before you are done?

MR. FRAWLEY: Yes, I am going to say something about that and that would resolve that and it will be kind of hard on the small Becker operation. I am afraid that they cannot continue, once gasoline is standardized, they could hardly continue to sell 63 octane gasoline even though they do call it Hi-octane, as regular gasoline. Then the Lion Oils Limited also was rejected. I use that word without any offence of course, by Dr. Brown, and we find that if we want to look at what they had to say about their refining operation we find that in Volume 110.

THE CHAIRMAN: What did you say? Rejected? I just got the word "rejected".

MR. FRAWLEY: Dr. Brown rejected the refining operations, all refining operations in the Province for his purposes except the Imperial Oil Limited. I say that Lion Oils Limited - their story can be found as told by the witnesses Logie and Plotkins in Volume 100 and by the same witnesses in Volume 118. For the information of the Commission their story is contained in Exhibits "542" "543", "544", "596", "597", "598" and "599". That also during the period which we have been reviewing was a skimming plant operation with small volume.

Gas & Oil Products Limited, their evidence is contained in Volume 59, as given by the witness Scrimgeour, and in Volume 109 as given by the witnesses Scrimgeour and Jones; in Volume 138, the witness Boyd, and in Volume 139 by the witnesses Boyd and Mayland. The exhibits are Exhibits "258", "259", "260", "261", "262", "537" and "538". That in the period under

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review was a skimming plant operation. They also had an absorption plant in connection with it but they were still a skimming plant operation. In other words, they served only the third structure market, the new plant only coming into operation in the middle of November, 1939.

The British American Oil Company, that is the refining operations, the evidence is given in Volumes 100, 101 and 102, by the witnesses Miller and Bronsdon in 100, by the witness Bronsdon in 101, and also by the witness Bronsdon in 102. Their refining submission is contained in Exhibits "475", "476", "478", "279" and "480". In 1938 the British American had no refining operation except two emergency operations, one by its subsidiary, the Bell Refining, and one at its Coutts plant. The British American, therefore, had no refining costs of their own in 1938. The Bell plant and the Coutts plant were skimming operations and only temporary operations at that. And it is for those reasons that they have not been taken into account, as indeed they could not have been taken into account by Dr. Brown in his evidence, always subject, of course, to the estimates that he made. I am speaking about what he actually had to consider.

Then we come to the Imperial Oil Limited. In 1938 they had a normal refining operation, making all products for their own marketing department and for their jobbers. It is also interesting to know the extent of the volume of business which the Imperial enjoyed as a refiner. Exhibit "456" shows that in 1938 they refined 39,167,346.1 gallons of tax collected products, which excludes sales to the Dominion Government, sales of Varsol cleaning fluid, sales of fuel oil, which

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is exempt from tax, and sales of heavy fuel oil. That is just to give you an idea of the extent of their operations, and that 39,000,000 gallons does not include the British American runs. That is their own business, because the 39,000,000 alone is not very informative. The percentage of the total tax collected sales was 49.61% and the percentage of the total sales was 53.84%. That is when you add the heavy fuel oil and the Dominion Government sales and coal oil. Even of the taxable products you see that they manufactured, they refined just an even half, an even 50% less a small decimal point, of all of the tax collected gasoline sold in the Province. Now why does Dr. Brown take the Imperial Oil? Well, he takes it because it is the only complete operation in the Province. It is the only operation which gives us a picture of all of the refining phases. For instance, if we analyze it, if we had taken Gas & Oil Products for instance, or Lion Oils, we would not have been able to find out anything about the cost of making Ethyl gasoline or "Q" gasoline. We might have found out how to make third structure gasoline, but we could not have found out the cost of all of the products. But the Imperial operation gives us the cost of refining all the products. Now you may say "At least we would be helped perhaps to know what Gas & Oil Products, what their experience was in making third structure gasoline." That is where Dr. Brown's opinion comes in, and I want to refer you to what Dr. Brown says about that when he rejects these other operations, not using the word offensively, of course. In Volume 77 on Page 8,951 and 8,952. This is the first of two or three short references that I want to give to you and I give it to you first because

it does appear first, although I must confess it is on just a slightly different point, of course.

"Q Well, Dr. Brown, just to put a supposititious
" case to you, supposing you had to give an
" opinion in your professional capacity,....
"A As to how it should be regarded?
"Q No, as to what would be a fair price to the
" public per gallon for gasoline, how would you
" approach it?
"A I would start to analyze the situation on the
" basis that I found it. As I find it here, it
" is a competitive industry with, well, three or
" four refineries, producing the products desired
" from the crude oil. Then the lowest cost refiner
" would be the one which should set the price in
" a competitive industry. It would seem to me
" that the best way to do it would be then to
" analyze the operations of all of the refiners
" who are marketing in the territory and figure
" out what is the low cost for the refining of
" crude oil. In other words, what is the cost
" to the lowest cost refiner. And that should
" then set the price on the principle of free
" competition.
"Q And if you were concerned with that in a local
" situation, would you be concerned to ascertain
" what the lowest cost refiner was doing in that
" locality?
"A That is correct."

"Q. MR. FRAWLEY: How about volume?
"A. That is one of the factors.
"Q. Yes?
"A. The assumption would be in free competition---
"Q. Would you take the Plotkins', the Lion Re-
" finery. That is the smallest of the four we
" have been talking about. The Imperial, the
" B. A., the Mayland and the Lion. I am just
" bothered about that. You could not take a
" plant that was too small, a four hundred or
" a five hundred barrel a day plant, could
" you?
"A. The small plant will not be the low cost
" plant.
"Q. No, he would not be this man which is the
" lowest cost refiner?
"A. No.
"Q. He might be.
" THE CHAIRMAN: He could not be on the
" Doctor's theory as I understand it, because
" the one with the great volume will be lower-
" ing its cost.
"Q. MR. FRAWLEY: We first find which of
" the four is the lowest cost refiner, is that
" what I understand you to say?
"A. Yes.
"Q. Suppose we found Mr. Plotkins with just his
" 400 or 500 barrel a day plant was the lowest?
"A. Make that supposition.
"Q. That would not still advance your problem or

" that would not help?
"A. Let us make the supposition that Plotkins had
" a refinery - which I think is still a suppos-
" ition and contrary to fact - and if he was
" able to produce the products required from
" that, and that he was the low cost producer?
"Q. Yes?
"A. Then he would set the price for the gasoline
" and the other products in this territory,
" because he could make a profit and sell it
" at these prices, which is a fair price. Then
" if the other people could not meet that price
" and still stay in business. he will enlarge
" his plant and he will continue to process the
" crude at no increase in cost, and still be
" able to make a profit and supply the entire
" market. That is the theory or the way an
" engineer looks at it. At least that is the
" principle of free competition."

Then going to page 8955----

THE CHAIRMAN: Well now does he go on?

MR. FRAWLEY: Yes, he deals with that because he says he does not make the products, that is his distinction, all these people other than the Imperial do not make the products. I will give it to you and then perhaps we can discuss it.

THE CHAIRMAN: I was just wondering whether it comes into conflict with that statement that Dr. Frey made and we have to face that sooner or

later, is it right to take the standard of excellence of the Imperial that has as good a plant as anyone, or are they in conflict? Something is the fact, if they are not in conflict all right but if they are we have to consider to whom we will give the weight.

MR. FRAWLEY: I have read Dr. Frey and read it two or three times----

THE CHAIRMAN: You remember that part I am referring to.

MR. FRAWLEY: Yes, he says it would be dangerous to take for the standard of excellence the one with the low cost, it might tend to monopoly.

THE CHAIRMAN: Yes.

MR. FRAWLEY: And one can easily theorize with him about that but of course my difficulty is this, and it is a very simple, practical one, the Lieutenant-Governor-In-Council has asked this Commission to find out the cost of refining gasoline, that is one of the pigeon-holes. Now we cannot find it unless we take the Imperial. We just cannot find it. We would gladly have taken Mr. Harvie's clients and analysed his products but he didn't have one at that time. Gas and Oil Products has not one. We would never find it. I think it is a practical consideration that forces us in the last analysis to take the Imperial. We could say to the Lieutenant-Governor-in-Council but it would seem a strange answer to me "We cannot find out the cost of making Ethyl and "Q". We can take some of the smaller plants and say what it costs to make Third", and why cannot we, because Dr.

Frey says "We must take the Imperial. We have not anybody else to take". We could make a negative answer to the Lieutenant-Governor-in-Council but that does not make sense to me. At least it is extraordinary.

THE CHAIRMAN: But before we reach that do the two statements stack up, where that may lead us is another matter of course.

MR. FRAWLEY: Let us get to it.

THE CHAIRMAN: Is another separate way but Mr. Frawley we have been careful to ask other counsel to let us know when they feel that they would like a rest and I hope that applies equally to you.

MR. FRAWLEY: I have the same privilege.

THE CHAIRMAN: Yes.

MR. FRAWLEY: Thank you. It was not Christmas week when they were talking.

THE CHAIRMAN: You suit yourself entirely.

MR. FRAWLEY: Yes, if I find that I am getting more wearied than I was when I started this, I will let you know, sir. I would like to find what Dr. Frey says now because I quite agree it is a difficulty, it is a difficulty, and I just hope it does not result---

THE CHAIRMAN: We have to face it squarely and give effect to it.

MR. NOLAN: Volume 132, page 14,790 or thereabouts.

MR. FRAWLEY: You see you really have to go back I think to get the sense, the complete sense of that answer. You perhaps have got to go back not much beyond 14,786. You were asking him, Mr. Chairman, or

thereabouts----

THE CHAIRMAN: Yes, page 14,783 he was on something else, whether the Government should intervene.

MR. FRAWLEY: Yes but perhaps page 14,785, three-quarters of the way down page 14,785, you say:

"Now if that is so do you think that there might "not be a further case for proper Government "intervention in that the public should not "have to pay a price that is too high while "waiting for the forces of what we might term "the rule of drainage to impress upon the price "leaders that there should be a reduction in "the higher priced products. What is your view "about that?"

That is, whether the price of gasoline, was or was not too high and then he says:

"Well, the first thing that I would like to "be clear about is that there is competition "in the regular structure and in Ethyl and that "although it may seem that there is more com-"petition in third than there is in the other "two, that there nevertheless is competition in "the two better products."

And then he tells us all the other things that he has to consider and he says he has considered them and then on page 14,789 you say to him:

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"And of course, the other factor you mentioned "first, the profits of the companies."

That those are the various things that he would be considering to arrive at an opinion whether or not the price of gasoline was too high, the transportation facilities, the railway situation, the distance factor from the various markets, the state of highway development and so on and so on, and then I think I should read from here, you say to him:

"Q And of course, the other factor you mentioned
" first, the profits of the companies?
"A The profits of the companies."

THE CHAIRMAN: Where are you now?

MR. FRAWLEY: At page 14,789 and I think that is the beginning of it.

"We have had a very limited opportunity to "examine the profits of all the companies, for "as Mr. Cottle has related it has been impossible "to make as careful an analysis of all of the "companies operating as of the one particular "company. Now, I also recognize that there is "a danger in that situation of generalizing too "far about things on the experience of one company "in particular detail and quite a number of other "companies in lesser detail. Because a "thing that might be recommended by a spec- "ific company because of a peculiar set of "circumstances might work unreasonable ben- "efits for some and unreasonable harm to

"others, and I could not consistently advocate
"any radical changes of any kind, because there
"is too much potential danger one way or the
"other, in taking an extreme position on a sit-
"uation in which the various factors are so
"delicately in adjustment.

"Q. That is to say, you say it would be a wrong
" view to take the standard of excellence of
" the biggest company and say all others should
" approximate to that or go out of business?

"A. I think it would be very dangerous. It might
" destroy competition and I do not think it is
" desirable to destroy the competition because
" the ultimate result that we want is free com-
" petition.

"Q. Yes; well, I interrupted you, Doctor, you were
" saying that you had had a limited opportunity
" to study the profit situation?

"A. Just a limited opportunity, limited by the
" ability to get the figures and Mr. Cottle's
" figures are not in detail on all companies.

"Q. Yes, so that you were not able to make a full
" and complete examination of the profit sit-
" uation to the extent that you would like to
" have done?

"A. No sir."

Now of course let me say at once that we must not forget that Dr. Frey is talking about marketing. He certainly did not look at any re-

fining profits. There is that about it and Dr. Brown is talking about refining and if there is any clash about it, one is in his own sphere and the other is in his sphere, whether that is any help or not.

THE CHAIRMAN: Well of course he is talking about profits here. You see it all comes back to when the Government might take a hand. He said he would look amongst other things at their propostion and I think that is carried through and in 14,790 we come back to profits, or 14,789 rather and I say to him:

" And, of course, the other factor you mentioned
" first, the profits of the companies?"

Now we are back to that.

MR. FRAWLEY: Yes, just before that question, Mr. Chairman, the end of the question previously and the answer:

"These are some of the things I have been think-
"ing about in trying to arrive at a conclusion
"concerning the nature of the marketing problem".

THE CHAIRMAN: Yes.

MR. FRAWLEY: "The nature of the marketing problem", and that is just before you say "And of course the other factor you mentioned first, the profits of the companies", page 14,789.

THE CHAIRMAN: Yes.

MR. FRAWLEY: He certainly seems to think that it would be dangerous for the Government to start fixing, or any regulatory body start fixing prices on the standard of excellence, namely the profits performance.

THE CHAIRMAN: On page 14,787 he says:

"I will go this way. I will say that the general "principles that I enunciated before, that if "the price is so high and so clearly high that "the public should be protected from that high "price, whether it is on one, two or three or "half a dozen products, that the public has an "interest and that public interest to me could "logically be expressed by the State."

Now then you see that is where it starts I think, should the Government come in.

MR. FRAWLEY: Quite.

THE CHAIRMAN: Should the Government have an interest.

MR. FRAWLEY: Yes, when does the Government interest develop.

THE CHAIRMAN: And I think it is not marketing profits as distinguished from refining profits at all. He is directing his mind as to when the Government should take an interest and I would say that the effect of his evidence was that in deciding that, in deciding whether or not profits are too great, too high, too low or anything else that the Government should look at the profits of only one and it happens to be the lowest cost.

MR. FRAWLEY: Yes, he could say that, he could quite properly say that too, Mr. Chairman, he is talking of principles.

THE CHAIRMAN: That is right.

MR. FRAWLEY: The fact that he does not

know what those profits are-----

THE CHAIRMAN: Does not effect him one way or the other.

MR. FRAWLEY: No.

THE CHAIRMAN: That is right.

MR. FRAWLEY: So I think there is no particular circumstance in his apologizing for not having looked very carefully at these profits.

THE CHAIRMAN: And when Dr. Brown says you should always take the lowest cost he is speaking also from his point of view.

MR. FRAWLEY: You remember he said "I would come in here for a client", that is the approach which he took for himself or you gave it to him, and he said "I would be looking around as a business proposition to find the lowest cost". Well in any event he has eliminated from his consideration all of the refineries other than Imperial and my remarks of course----

THE CHAIRMAN: And you say as a practical thing you have not got anybody else.

MR. FRAWLEY: No. That is why I am giving you for what it is worth, an analysis and my appreciation of the Imperial's refining operations because if you are driven to it that must be your answer of course, but I take it that you will not make a completely negative answer unless you are forced to do it from the evidence so for what it is worth, and I hope to assist you in appreciating the Imperial's refining operation, I have some views to advance which I intend to do and that is all I have to say with regard to the, necessarily with

regard to the refining operation, saying nothing about the other companies at all but to lay a foundation for the rejection of the other companies I have to call your attention to the two or three pages in the evidence where Dr. Brown does that very thing, he starts at page 8955 in Volume 77;

"Q. I was a little fearful that the Commission
" might have the idea that you could take
" what we have got here in this Province,
" four or five plants that there are, and take
" the lowest cost that exists in those actual
" plants?
"A. For producing all of the products required
" by this territory.
"Q. But when they do not produce all the
" products, does not that create a difficulty?
" MR. FRAWLEY: Then we eliminate them.
"A. They are eliminated. They cannot do the job.
"Q. Nobody pretends Mr. Plotkins can produce any-
" thing but third structure gasoline at the
" moment. As I understand you that does not,
" with the rest, answer the Chairman's
" question.
" THE CHAIRMAN: Why should not Dr. Brown's
" theory apply to third structure gasoline, if
" he is not making anything else? If he is not
" supplying anything else?
"Q. MR. FRAWLEY: What do you say about
" that? We will assume he is making third

"structure gasoline in reasonably large quan-
"tities. How about that? Does he fit in in
"any way?
"A. Let us suppose Plotkins' one plant which
" is capable of making only third grade gas-
" oline.
"Q. Yes?
"A. And nothing else?
"Q. Yes, that is the fact?
"A. He is unable to supply this territory with
" its requirements.
"Q. Yes, that is right?
"A. He might, because of conditions of free and
" open competition sell his third grade gas-
" oline at a low price, which, in turn, will
" cause the other producers to reduce their
" price for that same product to equal his.
" Then he is faced with the difficulty of
" getting rid of the residue from his skimming
" or topping plant. This territory has a
" limited requirement for that residue, and un-
" less one of the other plants is kind-hearted
" enough to take that residue off his hands,
" he will soon fill his tanks full of this
" residue and then go out of the picture. Then
" the people who can supply the products re-
" quired by the industry will again be in com-
" petition with each other and that particular
" price of third structure gasoline will again

"rise. That has been repeated time after time
"over all parts of the United States. It is a
"matter of history. In other words, I have
"seen that same operation in my State in the
"past five or six years repeated many times.
"It is a marginal producer of a particular
"product who can exist only so long as the
"other companies hold an umbrella over him, and
"give him the protection that he needs to
"market his products. As soon as he stands on
"his own two feet, unless he is able to supply
"all the products required by the territory he
"is serving, he goes out of the picture.
"Q. Because, one way or the other, out completely
" or into complete operation?
"A. Unless the other refineries hold an umbrella
" over his own operations.
"Q. Then he could continue with this one part of
" the market?
"Q. Yes, as long as they are kind-hearted enough
" to take the other products away from him, or
" hold an umbrella over that operation.
"Q. He either goes out or he goes into the crack-
" ing operation and endeavours to supply all the
" products?
" THE CHAIRMAN: Unless as the witness
" says he can get those taken away from him.
"A. But he is purely a marginal producer which
" cannot supply the products, the requirements
" of the territory.
"Q. MR. FRAWLEY: When he is only making

" one thing?

"A. Yes.

1/4 "Q. We are back then to finding the lowest cost
" refiner in the territory, and examining his
" operation, and he must be a person - well
" let us talk plainly about the British
" American Oil Company. They have certainly
" as far as the market is concerned, consider-
" ably less of the market than the Imperial, so
" presumably their daily throughout would be
" somewhat less, although their capacity may be
" up to the capacity of the Imperial Oil. Do
" you think it is of value for us to endeavour
" to find the cost of the British American Oil
" Company, to find the refinery cost? You know
" something about the plant only having been
" built and so on?

"A. It is not yet really on stream."

And he goes on to talk about the British American, and that is not material, and about the Lion Refining Company and then the Gas and Oil Products plant and then:

"Q. Mr. Mayland of the Gas and Oil Products,
" Limited in Turner Valley is not able to
" supply the market. We know as a fact he
" is purchasing his first and second
" structure requirements through another re-
" finery.

"A. He would be of no use in this consider-
" ation.

"Q. We have been told he is now actually con-
" structing a cracking unit. You say he is
" not in the picture?
"A. If he is not in a position to supply all
" the products required he cannot be a de-
" termining factor in this price.
"Q. That eliminates the Lion and the Mayland.
" Then we have two left.
" THE CHAIRMAN: You say he is con-
" structing a cracking plant?"

That is referring to Mayland and then on page 8959:

"Q. As soon as he is in the picture and ready to
" supply all kinds of products from Ethyl to
" the lowest motor fuel?
"A. Well, even when he cannot supply all, but
" when he is supplying a substantial number
" of those products which are required - he
" may not be making any asphalt or something
" like that - but just the same if he is sup-
" plying only one product like third grade
" gasoline from a skimming plant, I know from
" experience that is not a real factor in de-
" termining what is a fair price for gasoline."

And then it is in that fashion, then on page 8960:

"Q. MR. FRAWLEY: Let me put it concretely
" to you, if I may. The Mayland interests now
" sell a certain amount of first and second
" structure gasoline which they buy from the
" Imperial Refinery. Now let us take that

" out. Let us push that back on the Imperial
" Refinery and substitute some gallonage that
" Mr. Mayland will be making himself?
"A. When and as and if this Mayland Refinery is
" able to produce a competitive standard grade
" grade of gasoline, third grade gasoline and
" one or two of the burning oils, they then
" would certainly have to be considered."

But only them he says, so that is the evidence which I refer to to warrant my submission that we are driven to the Imperial Oil operations in this area and so we have to consider from the evidence, an examination of the Exhibits fortunately is really all that we need----

THE CHAIRMAN: Do you not want to say something, more, Mr. Frawley, namely that,-in support of the view you are putting forward, namely that no other refinery is suggested here, that they are quite capable, when they get their cracking plant in, of competing with Imperial Oil in every way.

MR. FRAWLEY: No one has ever suggested they are not able.

THE CHAIRMAN: Oh yes.

MR. FRAWLEY: Because Mr. Mayland himself who is the No. 1 potential competitor at the moment is very complacent about it, he says "We sell against them in the market, we can make a better gasoline than they make and depend on quality to market my volume", so he is not complaining.

THE CHAIRMAN: And Mr. Plotkins has not been hestitant in pointing out that while he may not

have the capital behind him, that he is just smart enough to stay in the picture as a real competitor of this company.

MR. FRAWLEY: Yes.

THE CHAIRMAN: And that is why he is getting the cracking plant.

MR. FRAWLEY: That is true.

THE CHAIRMAN: That is before us. Perhaps it is right to say that even although Dr. Frey were right and even although we thought that his statement and Dr. Brown's did not jibe, that nevertheless on the evidence before us there is nothing to lead us to think that the picture which the Imperial presents and which the competitors say they can meet, might not be a perfectly proper one for us to act upon.

MR. FRAWLEY: If we had selected a refinery, supposing it was a complete operation, the British American had been complete or the Mayland plant, if they had been complete, when we began our Inquiry, some other than the price leader, then we might have not the same difficulty but it seems to me we are on fairly safe ground when we take the price leader, the price maker, the company that makes the price which all others follow. I am giving due effect to everything that Dr. Frey says; to me it would seem extraordinary if we just went out and took a plant----

THE CHAIRMAN: It is just as well to pause there about that because what they say is that, as I understand the evidence, is that nobody really

follows the price leader; it is just that the price leader is probably the biggest man in the market and he is the most sensitive to competitive forces and so the first to yield by changing his position up or down.

MR. FRAWLEY: Yes.

THE CHAIRMAN: And that those who follow him merely follow him because they recognize that that which he has given effect to by a changed price is a world condition that he must yield to and they must too.

MR. FRAWLEY: Yes, but there is such a thing----

THE CHAIRMAN: That they are merely saying "well his judgment is sound", "the time has come when he has to move his position because of the impact of world competition", and he may be a day late or a day early or six months late or six months early but they are free to move at any time and they would accept the judgment of that price leader, that it is generally accepted because he is the one that is most apt to recognize the world conditions because he will be the most hurt if he does not. Now that is my conception of what we are told, Mr. Frawley.

MR. FRAWLEY: Well Mr. Chairman----

THE CHAIRMAN: I mean whether it is sound or not, would you say that is the effect of what we are told about the price leader's position in any field.

MR. FRAWLEY: Well I rather,-may be of the same impression but I rather took it that the

evidence said that in every field there must be a price leader and generally that is the biggest man. He is not a bad man at all. He is the man you would expect to, that you would look to, to establish the price, his price, not a price, his price.

MR. NOLAN: No, Mr. Chairman----

THE CHAIRMAN: No, the price that he must establish to maintain his position in the market, because of the competitive conditions surrounding him and the rest of the world.

MR. FRAWLEY: Oh yes, I do not say----

THE CHAIRMAN: It is not that he does it arbitrarily but the force of competition forces him up or down.

MR. FRAWLEY: Yes, but there is a price leader, a price maker. The price is established from time to time by Imperial Oil.

THE CHAIRMAN: Well of course our evidence is that the price leader is not always followed.

MR. FRAWLEY: That is----

THE CHAIRMAN: He may be followed, he is more liable to be followed down but he frequently is not followed up.

MR. FRAWLEY: Those are just general observations by the witnesses Frey and Brown but in this Province----

MR. HARVIE: And in the evidence of our company we did not follow him in the second-last cut.

MR. FRAWLEY: Just a little late, that is all, Mr. Harvie. You picked him up in October and added them both together so that does not matter very

much.

MR. COTTLE: In the long swing though.

MR. FRAWLEY: From July to October and I am not being unkind in saying that you just waited that time, to get around to it, but you got around to it very well. You picked it all up and you are now to the decimal point with Mr. Nolan. There is nothing wrong about that and they make no apologies for it. There is nothing wrong about it. In fact I am glad there is a price leader because the whole of my marketing department picture is going to be directed to the advisability of doing all we can to keep Mr. Halverson as sensitive as we can to all these competitive forces because that is the only hope that the consumer has got, unless you go out and fix the price, the only hope the consumer has got, is to keep worryying Mr. Halverson enough that that worry expresses itself in a tank wagon cut.

MR. NOLAN: That is exactly what the Chairman has been putting to you, Mr. Frawley. Mr. Halverson is so sensitive that he has to follow the conditions as they exist.

MR. FRAWLEY: And it will be the tenor of my remarks, that we should create competitive conditions to see that Mr. Halverson is worried as often as we can worry him and then he will from time to time do the only thing that the consumer is waiting for, drop that tank waggon, create conditions as Mr. Plotkins would say, and has said so often---

THE CHAIRMAN: You are not forgotten, Mr. Plotkins, even although you were away for awhile.

MAJOR LIPSETT: Mr. Frawley , if you limit it to the Imperial, are you not up against this difficulty which is present in my mind with reference to the British American, you cannot fix their cost because they are not running for long enough but you are attempting to fix the costs of the Imperial's new refinery which is not yet completed, to some extent behind the British American in that respect, by relating their costs to their costs in 1938.

MR. FRAWLEY: Yes.

MAJOR LIPSETT: On an entirely different plant.

MR. FRAWLEY: That is what Dr. Brown has done. He has been able to do it and I appreciate----

MR. HARVIE: He did the same thing with the British American.

MAJOR LIPSETT: He has to some extent safeguarded himself by setting up a theoretical plant, an efficient plant and taking the costs from that.

(Page 17,106 follows)

MR. FRAWLEY: Before we get to that paper plant of his, he has given us an estimate of next year's Imperial operation and next year's B.A. operation and so on. We have to have regard to that, I am quite sure.

THE CHAIRMAN: He is putting up his supposititious case to check the plant that he is actually dealing with.

MR. FRAWLEY: Yes.

THE CHAIRMAN: At our invitation. We said "Now, supposing these plants are obsolete".

MR. FRAWLEY: Yes, I have a note of that. That is why he did that. It was at your own invitation. I have made a fairly careful analysis of his eight estimates and I think we have to have regard to those estimates. Now, that brings me to a review of the Imperial operations and we have had presented here in very great detail an analysis of the Imperial's 1938 refining operations. Now, I thought that, perhaps, my friend Mr. Nolan might have gone in some detail into that operation but he did not, and I may be just wearying the Commission by saying anything about that. But, on the other hand, it might help just to have collected in one place the Exhibits which show or which tell the story of the Imperial's 1938 refining operations.

MR. NOLAN: I did go into detail.

MR. FRAWLEY: I mean you did not do what I propose to do, Mr. Nolan, and that is take the Exhibits and more or less discuss them. As I say, that may be unnecessary to analyze each one at length, but I think it might serve something to describe in lay language just what these Exhibits are, eliminating a great many of them because I think for the Commission to thoroughly and completely understand the 1938

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Imperial refining operations it only need look at a handful of Exhibits, four or five or six Exhibits. They are these Exhibits. The first is Exhibit "280" and is the financial statement----

THE CHAIRMAN: Dr. Brown does bring that up, we are not just left with 1938.

MR. FRAWLEY: No, what I am saying is that I review the 1938 operation and I am saying, and it was suggested to him by you, that it might not be sufficient to take the purely historical picture, and then he said "Very well, I will give you a lot of other things," and he brought back eight other things, and I have those collected in one place for you. Now, the first Exhibit in the 1938 Imperial refining operation is Exhibit "280", and that can be briefly described as a financial statement showing (a) the cost of the crude run by the Calgary refinery in 1938; (b) the cost of operating the refinery; (c) that portion of the marketing expense in Alberta, Saskatchewan and British Columbia attributable to the products sold in those three areas which were manufactured in the Calgary refinery and (d) the sales value realized by the Company in Alberta, Saskatchewan and British Columbia from the sales of the products manufactured at the Calgary refinery. That is the first Exhibit, "280". The next Exhibit is "304", and that is a breakdown of a number of items in Exhibit "280", selected at our request and broken down for our information merely to properly understand Exhibit "280". And they are items of expense. They are items of manufacturing costs such as salaries, wages, pensions and so on.

The next Exhibit is Exhibit "305", and that is merely a breakdown of an item of miscellaneous

revenues totalling $36,321.97, appearing in Schedule 3 of Exhibit "280". That again, I think I may say, was broken down at our request merely for a better understanding of the operation.

The next is Exhibit "306" and that is a breakdown of an item of administration and general expense totalling $67,973.05, in Schedule 3 of Exhibit "280".

The next Exhibit is Exhibit "308", a refinery spread statement. That is a statement prepared to show the profit of operating the Calgary refinery-----

THE CHAIRMAN: "307" you did not mention.

MR. FRAWLEY: No, we are eliminating a lot of these. This boils down to just the essential Exhibits. Exhibit "308" is a very important one and it can be described as a statement to show the profit. It is the refinery spread statement. It can be described as a statement to show the profit in operating the Calgary refinery on the spread between the cost of the crude on the one hand and the prices realized from jobbers on the other hand. Both the cost of the crude and the realizations from the jobbers were adjusted to the prices that were in effect at the time the statement was prepared. That is to say about June, 1939. The reason for the adjustment was that there was a price reduction in 1938 in June, and our objective was to relate the 1938 profit performance to prices current as of the date of the statement so as to make the examination of the prices intelligent.

The next Exhibit is "310", which is merely a historical statement of the manufacturing costs per barrel extending from 1930 to 1938, and showing the cost which ranged from 55.56 cents to a high in 1933 of 84.25 cents. I do not mean that 55 cents is the low. The

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low is really in 1938 44.31 cents, and the average for the 9 years, 63.94 cents.

The next Exhibit is "311". That is a very important statement. That shows the capital employed in the Calgary refinery, totalling $2,976,032.01.

The next Exhibit is # "312" and that is a statement of the income and expense on the British American processing agreement. That was prepared to show how much profit the Imperial made on the British American processing agreement.

The next Exhibit is Exhibit "313", and that is a statement supplementary to Exhibit "311". That merely shows the details of capital assets. That is of no particular value and Mr. Cottle tells me that was prepared for Dr. Brown's analysis.

The next Exhibits now are a number of Exhibits prepared by Mr. Cottle. The first is Exhibit "666". That shows the refinery spread and that was given in Imperial Exhibit "308" but it is in more detail and shows something different by means of additional columns.

The next statement of Mr. Cottle's is Exhibit "667", which is a statement showing the cost at the refinery door of the various refined products manufactured at the Calgary refinery, computed by Mr. Cottle, on the sales realization basis, and upon the basic data shown in Exhibit "308".

The next statement is Exhibit "668" and this is the last Exhibit -----

THE CHAIRMAN: Exhibit "666" also refers to Exhibit "308"?

MR. FRAWLEY: It refers to Exhibit "308", page C.

The next Exhibit is "668", and that is a statement of the profit on the refined products manufactured, using the values contained in Exhibit "308", namely the realization form the sales to jobbers. Now, that is a brief description of the Exhibits-----

THE CHAIRMAN: These three documents, Exhibits "666", "667" and "668", are Mr. Cottle's work in respect of several phases of Exhibit "308"?

MR. FRAWLEY: Yes, that is quite right, Mr. Chairman.

THE CHAIRMAN: Yes?

MR. FRAWLEY: Now, Exhibit "308" and Exhibit "666" are the all important Exhibits. Exhibit "308", page C - I might give you, perhaps, just the reference in the evidence where these two Exhibits are discussed. Exhibit "308" is discussed by Dr. Brown in Volume 77, at page 9016, and Mr. Cottle discusses his Exhibit "666" in Volume 130, at 14,474.

Now, these Exhibits come down to a profit of $377,272.08 on the 1938 refinery operations, using the jobber prices as the selling prices for all goods manufactured. That simply requires an arbitrary decision to regard Mr. Halverson has a jobber and to charge him, to treat him as though he had paid jobber's prices for the gasoline which he took from the refinery and marketed through his marketing department. Now, this figure of $377,272.08-----

THE CHAIRMAN: That is the profit on refining?

MR. FRAWLEY: Is their profit on refining. That is the profit on Imperial's own run of crude of 12.68% on a refinery investment of $2,976,032.01. That is the figure,

that is the capital investment figure you will find in Exhibit "311". They made a profit on their own run of 12.68%. But in addition there was a profit on the run of British American crude of $51,728.59. That is shown on Exhibit "312", which represents an additional return on the same investment.

THE CHAIRMAN: Did we get Exhibit "312". We have "310", "311" and "313".

MR. FRAWLEY: Yes, I gave you Exhibit "312", and that is mathe profit made on the processing agreement with B. A.

THE CHAIRMAN: All right.

MR. FRAWLEY: That represents an additional return on the same investment of 1.74%. Therefore, the refinery earned a total profit of $429,000.67 or 14.2% on the investment. The same investment, shown in Exhibit "311" of $2,976,032.01.

MR. HARVIE: Is that not 14.42?

MR. FRAWLEY: Yes. 14.42. That is the historical picture and that would be the beginning and end of it if the Chairman had not suggested to Dr. Brown in Volume 77----

THE CHAIRMAN: What is that capital, if you please, on which there is a return of 14.42%? You gave it to us before.

MR. COTTLE: $2,976,032.01.

MR. FRAWLEY: And that is the historical picture.

THE CHAIRMAN: That is the refinery investment?

MR. FRAWLEY: The refinery investment, yes, Sir.

THE CHAIRMAN: You say their operations in 1938 gave a return of 14.42% on that capital invested?

MR. FRAWLEY: That is when you add the 1.74% that they made through running the B. A. crude. On their own alone they made 12.68%.

MR. COMMISSIONER LIPSETT: And are those figures based on the

1938 figures with the reductions projected into 1939 in the selling prices?

MR. FRAWLEY: Yes, disregarding the actual prices and assuming that they were in receipt of the lower prices during the whole of the year 1938. Really, they had a higher price on the 5th of January, well let us say the 1st of January, to the 21st of June, 1938. On the 21st of June, they lowered their prices.

MR. COTTLE: It is projecting the lower prices of 1939 back into the whole of 1938.

MR. COMMISSIONER LIPSETT: Oh, yes.

THE CHAIRMAN: That makes the picture adverse to the company, if anything, or favourable. That makes the picture favourable to the company?

MR. COTTLE: It really did not make a great deal of difference in the actual profit performance because their crude inventory cost was higher. I do not think their profits were changed very much by the adjustment but nevertheless the adjustment was necessary in order to relate the performance to actual prices at a given time, and particularly at a time when the Commission was looking at the prices that were in effect.

MR. COMMISSIONER LIPSETT: What I was wondering, Mr. Cottle, was this, whether if the company succeeded in making any savings in expenditure-----

MR. COTTLE: In 1939.

MR. COMMISSIONER LIPSETT: At the time by reason of which they gave the reduction, whether we are considering the figures now on the basis as if their expenditures had been the same as they were in 1938.

MR. COTTLE: Necessarily, we are considering the picture on the basis of the profit performance and the yields that actually took place in the year 1938. Whether those operations can be conducted in 1939 or 1940 or 1941, more economically, we do not know. Except from the estimates that we have of Dr. Brown's in respect to the new plant.

MR. COMMISSIONER LIPSETT: And whatever inference may be drawn from the fact of the reduction in price, if any.

MR. COTTLE: Yes, if any. I do not think we know why the price was reduced in June, 1938.

THE CHAIRMAN: Economic forces.

MR. COTTLE: Yes, but the Commissioner said what inference we might draw. I do not know the exact nature of the inferences that might be drawn. Economic forces is a rather large thing.

MR. FRAWLEY: Well, there is always one particular economic force that asserts itself at the moment and they yield.

THE CHAIRMAN: The last straw.

MR. COMMISSIONER LIPSETT: What I am trying to find out is this, if in fact at the time of these reductions, or since, the companies were able to reduce their expenditures in the refinery, then this percentage of return would correspondingly increase above the 14.42%.

MR. COTTLE: Yes, if savings have subsequently been made in the refinery operation it naturally would change the profit performance. And conversely if increased expenditures have been incurred it would operate the other way.

MR. FRAWLEY: Now, as I say, that is the historical situation, but at page 8991 and 8992 of Volume 77

the Chairman made a suggestion to Dr. Brown.

THE CHAIRMAN: Volume 77?

MR. FRAWLEY: Page 8991-2. I probably need not read it. You remember you simply put it to him to answer the questions properly this Commission would probably be required to not rest content with the purely historical picture and Dr. Brown then said he would----well, you said

"THE CHAIRMAN: Well, I do not know, we have "had one experience with history. We might not, I do not "know, be content to rely entirely upon history. "If it were established to our satisfaction by someone "that a plant set up today, although I do not gather "from your evidence that you would subscribe to it under "the circumstances that exist here, but if it were estab- "lished to our entire satisfaction that a plant set up "to-day would operate at a manufacturing cost of 20 cents "a barrel less, I do not know, Mr. Frawley, that we would "take the history of Imperial and say to His Honour, the "Lieutenant Governor, that the price should be based on "that historical situation, not for a minute.

"MR. FRAWLEY: No, with that I agree."

THE CHAIRMAN: You share whatever responsibility there was for getting in to this other field.

MR. FRAWLEY: Yes. It has been a trial to pick out this man's estimates. I think I have done it and that is what I want to do now, tell you all the estimates he did make. I have gone to the trouble of sorting it all out and putting it into a little folder and I will be glad to hand that in to the Commission.

THE CHAIRMAN: We will be very glad to have it. This is his modern economical refinery.

MR. FRAWLEY: This is everything. That is only item No. 8, I think. In this little memorandum I start on page 1 with what I have just left, the Historical Analysis. I thought I had better collect it there, although it could not be properly called an estimate. But on page 1 of this little folder I give you the volume number and the page number of the historical analysis for the 1938 Imperial Oil operations. I need not read it. It comes out to a rate of return of 14.42% when you add the return of 1.74 that they made on the British American run. Now, the second page really starts his estimates, and his first estimate is "Estimate of 1938 Imperial Operation if no British American Contract." He deals with that in Volume 127 at page 14195. He says that if the Imperial did not have the British American contract that the profit would have been $297,000.00, or a rate of return of 10.1%.

Now, Dr. Brown got his 10.1% by using the approximate figure of $2,950,000.00 instead of $2,976,000.00, as the capital invested. Using the latter corrected figure, the rate of return is 9.98%. Then I call your attention to the fact this estimate is not dealt with in Dr. Brown's memorandum, which he sent from Ann Arbor, Exhibit "711"

The next one is his Estimate of Imperial 1938 Operation without British American Contract but with new Imperial Plant.

THE CHAIRMAN: Just a minute, Mr. Frawley, I have 14.42, that is with the British American's 1.74% included.

MR. FRAWLEY: That is historical. It is not an estimate. I just put it here for convenience sake. Really, we start the estimates on the next page.

THE CHAIRMAN: I am wondering where that 9.98% comes in.

MR. COTTLE: Page 2, 9.98% is Dr. Brown's estimate of what the performance would have been in 1938 had the crude that was run for B. A. not been run. Now, the running of the crude for the B. A. gave a lower average per barrel cost to the Imperial on their own.

THE CHAIRMAN: I understand that.

MR. FRAWLEY: As I say, the estimate of the 1938 Imperial if no B.A. contract. Dr. Brown does not deal with that in his memorandum. He deals with all the others. Now, the next one is his Estimate of the Imperial 1938 operation without British American Contract but with the new Imperial Plant. Assuming that in 1938 they have their new plant but did not have the British American contract. He just endeavoured to put it on all bases for us. If the Imperial had, in 1938, the new plant, the profit would have been, without the British American contract, and running 4,750 barrels per day, $603,000.00, or 12.2%.

THE CHAIRMAN: That is to say the 9.98% changes to 12.2% because of the greater efficiency of the new plant, is that it?

MR. FRAWLEY: Yes. His profits and his investment, of course, are different too, you know. He uses the 1938 run of crude, 4750 barrels per day, and that comes to 12.2%. Now, the 12.2%, that is revised by, it has been correctly calculated by Mr. Cottle, and is 12.14%. But that is negligible.

MR. COMMISSIONER LIPSETT: Would that be the new rate of return on the new capital outlay?

MR. FRAWLEY: Yes, he uses an investment of

J. J. Frawley.

$4,000,000.00. A new plant investment. He throws that back into 1938. It is a supposititious calculation purely and simply. In my little folder, and in view of the fact this is not an Exhibit, probably I should continue on and read, in Exhibit "711", page 16, Example 2, Dr. Brown revises the figure of $603,000.00 to $574,000.00, and using the investment of $4,728,000.00 supplied by the Imperial, he shows a return of 12.2%. Correctly calculated by Mr. Cottle, this figure is 12.14%.

Now, the next is, perhaps, important. It is his estimate of the Imperial 1940 Operation with the New Plant.

Dr. Brown's estimate is that the Imperial will run 5,500 barrels daily in the new plant. He says that, using Imperial's own estimated costs, the amount of which is not mentioned, and using capital investment of $4,728,000.00 given by Imperial, return on the investment would be 15.6%.

Now, may I stop and say that that was dealt with by Dr. Brown in his evidence in Volume 127, at page 14,198. That is in the folder which I have given you, of course. In the top lefthand corner I have given you that in each case. He says that would return 15.6%.

In Exhibit 711, his memorandum, at page 16, Example 1, Dr. Brown shows a profit for the above operation of $710,000.00, which he computes to give a rate of return on capital invested of $4,728,000.00, of 15%. Mr. Cottle has made a slight change in that. He correctly calculates that at 15.02%. We will come back to that later.

The next is an Estimate, in which he deals with, in Volume 127, at page 14198, this is his

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J. J. Frawley.

Estimate of his substitute plant for the Imperial Operation.

MR. COMMISSIONER LIPSETT: Now, Mr. Frawley, is that figure of 15.02% a return both on the new plant and on the abandoned plant?

MR. FRAWLEY: That is the rate of return on-----

MR. COTTLE: It is the return on the investment that will remain in the new plant, after the new plant is completed, and includes whatever investment is carried over from the old plant, of course.

MR. COMMISSIONER LIPSETT: Does it also include anything in the old plant that has been scrapped?

MR. COTTLE: No, that is on the assumption that the $2,976,000.00 is the proper figure in Exhibit "311", and that that provides sufficient reserve to fully depreciate any assets that are scrapped.

MR. COMMISSIONER LIPSETT: That was the value yesterday or last year of the old plant, was it?

MR. COTTLE: These are the depreciated values in all cases. $2,976,000.00 is the depreciated value of the old plant and that is providing very substantial reserves on the old investment. Now, $4,728,000.00 represents the old figure of $2,976,000.00 plus the new investment.

MR. COMMISSIONER LIPSETT: It is taken on book figures, is it not?

MR. COTTLE: Yes, it is taken on book figures.

MR. COMMISSIONER LIPSETT: Whether the old plant is now scrapped or not, or is no longer useful, the new plant would still pay 15% on it?

MR. COTTLE: The old plant originally cost $5,289,000.00. There is a depreciation reserve of $3,444,000.00

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shown on Exhibit "311", leaving a book value of $1,845,000.00, which is taken as the value of the old plant as it was when they started to build the new one. Now, if there is any old and obsolete equipment that is going to be scrapped presumably it will be written off against the depreciation reserve, which is rather substantial, $3,444,000.00.

THE CHAIRMAN: Well, we will rise.

(At this stage the Hearing was adjourned until 10:30 A. M. 20th December, 1939.)

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The Province of Alberta

IN THE MATTER OF THE PUBLIC INQUIRIES ACT

—and—

IN THE MATTER OF a Commission, dated the 12th day of October, A.D. 1938, to inquire into matters connected with Petroleum and Petroleum Products

Commissioners:

The Honourable MR. JUSTICE McGILLIVRAY
(*Chairman*)

—and—

L. R. LIPSETT, ESQ.

Session:

CALGARY, Alberta DECEMBER 20th, 1939

VOLUME 153

FINAL ARGUMENT

THE CHAIRMAN: Mr. Frawley, we have Mr. Ray's printed books.

MR. FRAWLEY: Yes.

THE CHAIRMAN: He said that one would go to you.

MR. FRAWLEY: One has gone. Mr. Cottle has been given one, at least two were left in our office last night and I presumed one was for Mr. Cottle and one for myself.

Mr. Chairman and Mr. Commissioner, yesterday you asked me to point to the evidence of Dr. Brown on the pipeline throughput, the large pipeline to the head of the Lakes and we have found that now, in Volume 126 at page 14,072 ;

"Q. And to effect that change he must come
" up to, what do you say he must come up
" to justify a pipeline?
"A. I should think there should have to be
" available some 40 to 50 thousand bar-
" rels per day over and above that used
" in the Prairie Provinces."

And we have had it running all through the evidence that the Prairie Province consumption is on an all-year average of 20 thousand barrels a day and there is some cross-examination which preceded that and follows it of the Chairman's which I think perhaps might be useful to call your attention to, it is this in-between period discussions.

THE CHAIRMAN: Yes.

MR. FRAWLEY: I would suggest that you make a note starting at page 14,070, 71, 72, 73, 74; for instance just take such a question as this on page 14,074, it is the Chairman's question:

"Q. What are we going to recommend between
" the 20,000 stage where everybody is
" happy and the 70,000 stage where they will
" be happy again but in between the 20 and
" 50 or the 70, they are going to be very
" unhappy and what are we to suggest?
"A. Well frankly the only thing to suggest is
" that they just go their way and see what
" happens, because when you have got a sick
" situation----
"Q. What about this fringe we have been working
" on, the economic fringe?
"A. Perhaps I am at a loss to really understand
" some of your questions, I do not know. Mr.
" Frawley tried to help me a moment ago."

That was bad, he should not have looked to me.

"MR. FRAWLEY: I was giving you my
" views and not the Chairman's at all, just
" another problem.
"Q. THE CHAIRMAN: I can see quite well,
" Dr. Brown, at least I hope I follow what
" you have been saying, that so much oil is
" produced at a certain price?
"A. Brought to the surface and marketed.

"Q. Brought to the surface and marketed at a
" certain price?
"A. Yes.
"Q. Which I gather you think fair to the
" producer and to the refiner who is buying
" it, alike?
"A. Right."

And so on.

"Q. Now I say that if that is fair and proper
" and it is folly to take less money to go
" further-----
"A. Under those conditions."

There probably are some excursions into other collateral matters but it keeps on on the same matter because I find on page 14,077 he answers:

"A. Then what will he do, he will drill his
" wells, get his 70,000 or 60,000 or
" 70,000 barrels per day of oil available
" and then go to the bankers and say "I
" have 60,000 barrels of oil out here, I
" have a market down here in the Great Lakes
" of enormous size and I am willing to pay,
" let us say, 40 cents per barrel to get
" that oil from Turner Valley down to the
" Great Lakes. If I put through so many
" barrels per day it is a good investment",
" and then he has got a market at perhaps a
" lower price, but still a price which nets
" a good profit for the much larger amount

"of oil. Now he may just as well do that by
"   simply being content with the situation,
"   before he started to drill these extra
"   wells.
"Q. And which is the economical thing to do, to
"   keep drilling at great expense until you
"   have got the 70,000 barrels per day in order
"   to go into a market that is already fully
"   occupied, fully occupied?
"A. By "Economical" do you mean from the profit
"   and loss standpoint, I suppose you do?
"Q. Yes?
"A. Well if the man is right in his estimate----
"Q. I may be taking you out of your field
"   Doctor, this may be a matter for another man,
"   an economist?"

Then Dr. Brown cannot be accused of being too modest because he said:

"A. Well I am not rated as an economist but
"   I am rated as an engineer and an engineer
"   deals with costs and things of that kind
"   but I want to be sure we are talking about
"   the same basis if it is a matter of profit
"   and loss."

I do not know that I should pursue that any further. I think when you come to review it and find what was said on that point you will find it running through these pages.

THE CHAIRMAN: Starting at page 14,070 to where?

MR. FRAWLEY: Well I think the next ten pages, perhaps to 14,081 or 82, Mr. Chairman.

THE CHAIRMAN: Did he at any stage help us as to what is going to happen between 20,000 and 60,000?

MR. FRAWLEY: I do not think any more than anybody else did.

THE CHAIRMAN: "Wait and see what happens".

MR. FRAWLEY: Yes, you see you mean, I think that they seem to say that you cannot make up your mind now, frankly you cannot go to the banker and say "Well we have a lot of engineering estimates", and point to the evidence say before this Commission and talk about so many acres and so on and say "We want $60,000,000", we cannot do that and then there seems to be nothing, nothing, suggested to this Commission from that extreme to the other extreme of drilling the holes and having the oil either above ground or capable of being brought above ground, and indeed is must be brought above ground to determine satisfactorilythe rate of flow and so on.

THE CHAIRMAN: Yes.

MR. FRAWLEY: Up to a point anyway.

THE CHAIRMAN: And now what I would like your views on, assuming that is the situation, does not it mean, or does it, an elimination of all small people in Turner Valley to reach the volume of oil in sight.

MR. FRAWLEY: Well I think that is the very question that I put to Dr. Frey and fortunately for

us he does deal with that, he deals with that in his summary in Volume 137.

THE CHAIRMAN: If it would not be throwing you out of your subject it would be nice to have that here.

MR. FRAWLEY: Oh no, quite all right. I have a note on that. Dr. Frey deals with that as completely as anyone does , in Volume 137, Page 15,341 and it starts with Item number 12 of his summary, his twelfth summary or twelfth point, high lighting pro-duction as he calls it:

"12. The decline curve of production not only "affords an opportunity for new wells but de- "mands them and I think at that point I should "like to address myself to another statement "that one often sees, and that is that the "large company is in a position to drive the "small companies out of a field. Now, if you "have decline curves, and you cannot avoid "them, then you must have new wells and the "reduced rate of production through holding "back pressure results in a longer pay-out "period, which should be reflected in a longer "investment period; and this adjustment be- "comes more or less automatic when its prin- "ciples are more generally recognized, provid- "ing there is a spacing programme, or lacking "a rigid spacing pattern the acreage factor is "introduced into an allowable figure."

If I might interrupt he certainly is addressing himself in any event to our particular problem there, how satisfactorily he comes to a conclusion is another matter.

"Now if the large company enjoyed the superior advantage it would have to totally disregard the allowable, because it is just as subject to a reduction in allowable as the smaller company, and by reason of its experience it is thoroughly alive to the fact that a longer pay-out period results in a longer investment period. I should also like to cite the experience in the United States as to the operation of large companies in fields that are tending towards marginal. By reason of the fact that the larger companies employ highly trained people and consequently people who draw comparatively large salaries, there is an overhead problem in production that cannot be disregarded and when a field is either pushed down by allowables or has naturally taken the down trend by reason of the decline curves, the large company does not find that type of operation profitable and as a rule sells out to a smaller company, that has a lower overhead. And when that company reaches the same position as the larger company experienced, it sells to a still smaller company and to another

"company, and that is the way it goes until "finally the field is not owned by oil com- "panies at all but is owned by farmers who "pump the oil as an incident to their other "occupation. So that the trend in our "country is for the larger companies to "abandon the territory that has gone to the "point where production does not justify their "employment of high-priced management. I do "not mean to say that means high cost manage- "ment in all cases but it does as the pro- "duction runs down."

THE CHAIRMAN: Does that cover it.

MR. FRAWLEY: Well I think he is addressing himself to that. We have the allowable, we have the allowable. Now to theorize about this, as I said yesterday, production is going up, we are seeking to get this 60 or 70 thousand barrels.

THE CHAIRMAN: Let us assume that.

MR. FRAWLEY: The production goes up; Royalite drills its acreage and the smaller companies drill their acreage and all the time the Conservation Board is there with an allowable.

THE CHAIRMAN: And long before that field has petered out because it is idle to talk about getting a pipeline in a field that has petered out, there is no use of talking pipeline then, but in that interim period where your field is potentially able to produce 60,000 barrels per day for the period necessary

[illegible]

[illegible]

[illegible]

[illegible]

to amortize the pipeline to the head of the Lakes, well I mean just what would happen to the small man.

MR. FRAWLEY: Yes, it is not so much what my views about it are, they are very unimportant but what the witnesses have told us. I think that is as much, that is as much as Dr. Frey tells us, and I do not know that Dr. Brown tells us any more. It might be well if I explored that passage which I read to you this morning and see if he does come to a concrete conclusion there, which I will be very glad to give the Commission but I suppose it is true----

MR. NOLAN: May I interrupt, is the point whether the small producer is forced out of the picture.

MR. FRAWLEY: Pitched out.

THE CHAIRMAN: If we were to seek, if we were to amortize a pipeline to the Great Lakes, I say how can the small producer continue to exist when we are working up to that and we have to see,-assuming Dr. Brown is right,-we have to see 60,000 barrels a day in oil that is available before you can get the money.

MR. NOLAN: In Volume 127----

THE CHAIRMAN: All right, but between 20,000 and 60,000 there is that hiatus in there where the oil is not moving; your market is 20,000, you are producing 60,000 and at the moment it strikes me, subject to what may be said to me, that the small producer is bound to go out because he cannot continue to run.

MR. NOLAN: I think this is the reference you want.

MR. FRAWLEY: Yes, thank you. Now how much we can get out of it for your information now I do not know but we will give you the refernece, In Volume 127, Dr. Brown begins, page 14,158, now he begins by calling attention to something which was in the Herald, in which he was quoted in the first person and he objected to that. He said, he quoted from the record really of this Commission, he quoted from page 14,061 which reads as follows:

"At the present time' this is in answer to a question, Dr. Brown is reading:

"At the present time, yes, because I do not
"believe the possible production from these
"fields is sufficient to justify at the
"present seeking a market as might be
"sought if the production were 75,000 bar-
"rels a day. I do not believe the actual
"production in here is much over 20 or 25
"thousand. Am I right?".

Then he goes on:

"I was unable to confirm that figure yester-
"day in this room but last evening and this
"morning I find that the actual production
"is 26,000 barrels as compared with my
"figure yesterday of 20 to 25 thousand bar-
"rels and I indicated that at the present
"time it would be impossible to supply a
"market that might require 75,000 barrels per

"day; that is what I meant to say at the bottom "of page 14,061 and I find that the present po- "tential through a one-inch choke is something "under 60,000 barrels per day.

" On the next page upon "further questioning regarding the amount of oil "which might be produced from this field I stated:

" I am speaking now outside of my field,
" But I believe from what I have been
" told and from my observation that the
" economic amount of oil that can be pro-
" duced from these fields is not very much
" in excess of 25,000 barrels a day.

" At that time we were dis- "cussing the economics of marketing crude oil and "I used the phrase "The economic amount of oil "that can be produced from these fields", taking "into consideration the economic amount of oil "which could be sold and it is certainly not "economical to produce more oil than can be "sold and that statement should be interpreted " and was intended to mean that it was not econ- "omical at the present time to produce more "than 25,000 barrels per day for the reason that "more than 25,000 barrels per day at the present "time cannot be marketed without taking a very "severe cut in price, which I consider to be un- "economical."

[illegible]

MR. FRAWLEY: At that time Dr. Brown really is explaining his differences with the newspaper. Yes.

MR. HARVIE: There is another reference here that may be right on the point, Mr. Frawley. Volume 126, at page 14,094, where Mr. Commissioner Lipsett deals with the thing specifically and the reply came after lunch.

THE CHAIRMAN: 14 what?

MR. FRAWLEY: Page 14,094, Volume 126. I was just about to come, in Volume 127, to a reference by Dr. Brown, but what Mr. Harvie has just shown me is probably what he is talking about. This is what he says at page 14,094 in Volume 126:

" MR. COMMISSIONER LIPSETT: I am just trying to
" think out this intervening stage between the twenty
" thousand and the seventy thousand and whether the aim
" should be to keep the market as you suggested of
" twenty thousand barrels approximately.
" THE CHAIRMAN: At the present price?
" MR. COMMISSIONER LIPSETT: At the present price or
" whether the aim should be to sell seventy thousand
" barrels at approximately that price and how that can
" be reached without injustice to anybody in the
" intervening stages?"

That seems to be the point we are discussing this morning.

"A I cannot give you an answer or an opinion which would
" be my firm belief that you can do anything without
" creating some injustice to somebody.
" THE CHAIRMAN: Now let us say that seventy
" thousand is your point and they would construct
" a pipeline. Let us say that.

"A That would mean fifty thousand barrels through the
" pipeline. Twenty thousand in the Prairie Provinces
" and fifty thousand to the Great Lakes.
"Q All right. Seventy thousand is your objective. Now
" up and until that pipeline is down and operating it
" is uneconomic to market more than twenty thousand
" barrels. The other fifty thousand must be marketed
" at a loss.
"A Or not marketed.
"Q Or not marketed yes, kept in the ground?
"A Right.
"Q So the producers of Turner Valley would never be able
" to finance the operation of drilling holes and leaving
" the oil in the ground?
"A Somebody has to finance it yes or else give it away,
" cart it by rail down to the Lakes or something like
" that which is very unsound. That is true. That is
" history of the Industry.
"Q I think we understand Dr. what your views are as to
" that."

MR. HARVIE: Then they adjourned over the noon-hour and then he opens up again by saying:

" Do you care to say anything more with respect to the
" question you were discussing with the Chairman and
" Commissioner Lipsett this morning?"

and he goes on to say that he has made some further notes with respect to it.

MR. FRAWLEY: Yes, then I should give you this reference. Page 14,097 in Volume 126. In the middle of the page.

J. J. Frawley, K. C.

" I made a few notes which I "think may be helpful in getting clear to you my ideas. "Now with the conditions as they are, that is a good part "of the land owned by other than the people, owned by "private individuals and corporations and a good part "of the state land itslf actually now under lease, it "seems to me that the conditions, the basis on which the "crude oil resources of the province are being developed "is on a basis of competitive development with leasing "and drilling open to all responsible parties under the "control of the Board of Petroleum and Natural Gas "Conservation. Now with that situation as it is, it "seems to me that, without doubt the best policy to "pursue is to leave the action of the individual, be he "an individual operator or small company or a large "company, as to whether to drill or not and where to "drill, to his own good or bad business judgment; that "any attempt to interfere or control this individual "business judgment will tend to limit development and "must lead to state ownership and operation as, if the "state refuses to permit the individual citizen from "exercising his judgment as to when or where and how much "risk to take in these speculative ventures, the state "must then be prepared to assume those risks itself in "order that the natural resources will be developed; "then it seems that the state should not decide for the "individual whether or not drilling should be permitted; "in other words the state then should not stop drilling, "even if in the best judgment of the technical advisors "to the State or the province, they are convinced that it

"is going to be impossible to bring in a pipe-line.
"I am still of the opinion that drilling should not even
"then be eliminated. It might though be desirable if
"that situation arose for the state to refrain from
"leasing any more of its land and secondly it might, if
"it was thought necessary, withdraw from leases, on due
"notice, some of the land which has already been leased
"but that is going perhaps further than is necessary.
"Now the drilling permits are now regulated by the
"Petroleum and Natural Gas Conservation Board. That
"procedure should be continued and the Board should be
"allowed to continue with its present spacing programme
"and in cases which might develop or in new fields which
"may come in, they may modify that spacing programme.
"They may require only one well to 160 acres instead of
"40, or there may be some other arrangement made; that
"is one way of controlling the speed with which the fields
"are developed but that should be under the control of
"the Petroleum Board as they control the drilling permits;
"thirdly, the pro-ration should by all means be continued.
"Pro-ration prevents the chaotic conditions which had
"been so often experienced in the States and it also
"tends to protect the small producers; if there is no
"pro-ration, as was brought out this morning by Mr. Frawley,
"the small producer simply has to dump his oil at whatever
"it will bring in order to meet his day to day expenses
"and he is actually robbed of his, - to all intents and
"purposes, - actually robbed of his oil when the drilling
"becomes excessive, while under pro-ration he is at least
"assured of his proportionate amount of the market and at a

"definite price; without pro-ration he is not assured of "any market whatsoever and at no price, so while it is "true under pro-ration, with drilling permits being "allowed for the field to be developed, to expand greater "than is necessary to supply the present market, the "small individual producer does have his return reduced "proportionately but he is never completely robbed of all "of his return, as has been the case where pro-ration "is not in effect."

He is contrasting pro-ration and no pro-ration.

THE CHAIRMAN: He is really saying how you hold back and not how you get to the head of the Lakes, there. How you can, say on a proper economic basis.

MR. FRAWLEY: That is as much as I need read of Volume 126. In Volume 127, at page 14,162 he says:

"A Now another point which was discussed yesterday and
" on which I was not thoroughly prepared, - although
" I did not hesitate to speak my opinions, - was what
" would happen to the present producers in the Turner
" Valley field during the period in which those wells
" are drilled, so as to put the field in the position
" of being able to produce some 50,000 barrels per day
" without undue waste and I stated that it was my
" opinion that no hardships would be brought upon the
" small producer because of the fact that he would be
" allowed under the present pro-ration formula, under
" the Board, to produce sufficient oil to reimburse him
" fully for all of his out-of-pocket expenses and in
" no case in my opinion would the producer be forced

[illegible]

out of the field if the field were continued to be developed under the present pro-ration plan and last evening I was provided through the courtesy of Mr. Cottle with a list of all of the wells producing as of October 11th, 1939, and he helped me in computing, or rather I should say computed for me the allowable production of a number of those wells on the assumption that sufficient additional wells were brought in so as to bring the total potential as currently determined to 100,000 barrels per day, at which time the approximate daily allowable on the basis of the present waste would be some 50,000 barrels per day and it would indicate that 50,000 barrels per day or more could then be produced with the same, approximately the same gas-oil ratio, or with the same degree of waste as is now in effect in the field when producing 26,000 barrels per day and throughout that entire period during which this field would be drilled to a production of 100,000 barrels per day, the application of the present pro-ration schedule would in no case force any single oil well into a limited production that would prevent that operator from receiving sufficient cash to continue operating the well and with some profit left over.

The lowest producing well, according to this schedule, is Model No. 2, which has a present daily allowable of 18 barrels a day; that indicates that the cost of producing oil in these wells in the aggregate certainly could not be more than about $20 per day, probably somewhat less than that, that is the actual out-of-pocket expense of

[illegible] combined to [illegible]

[illegible]

[illegible] temporary [illegible]

[illegible] probably somewhat [illegible]

[illegible] the method [illegible]

" producing the well, must be something less than
" $20 a day.
"Q MR. FRAWLEY: Why do you say that?
"A Well this well is only producing 18 barrels per day
" and at 18 barrels per day at the field price of $1.20
" it figures out at $21.60 or thereabouts; therefore
" certainly it is not costing that producer more than
" $21.60 per day out-of-pocket expenses to bring his
" oil to the surface and because these wells are all on
" flow and the cost of bringing the oil to the surface
" is practically constant per well----
"Q THE CHAIRMAN: Why does that follow; we have
" heard people running at a loss and hoping for the
" best in the future, before now?
"A Now there is a difference between loss and out-of-
" pocket expenditure; in order to get this well into the
" ground I imagine that certainly $150,000 or more may
" have been expended; now to operate that well at a
" profit the money that he must, the money that the
" operator must receive must be sufficient first of all
" to reimburse him for the out-of-pocket expenditure
" in the actual daily production of that well; secondly
" it should reimburse him for the investment which he
" has in the well. However, if the amount of oil
" which he gets from the well or the money which he
" receives from the oil which is sold is insufficient
" to reimburse him for the investment which he has made,
" he is taking a loss but the well will be operated
" continuously so long as the money received from
" the sale of oil is equal to or greater than the
" out-of-pocket expenses incurred in producing that well.

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"Q In the statement you make you are assuming that nobody
" would run for any long period of time with an operating
" loss?
"A No, not certainly a well of this kind which is rather
" an old well and already probably paid out, so this
" Model 2 is a well with the lowest daily allowable,
" it is producing 18 barrels a day.
"Q How do you account for there being, people being so
" ready to forget capital investment and the amortiza-
" tion, and the amount put into the well, is it because
" the public has paid that?
"A If I understand you, you mean, how do I explain for
" the fact that other men are willing to come in and sink
" their money for new wells.
"Q You say, as I appreciate your last bit of evidence,
" it is not astonishing to you that people might be
" willing to continue to operate a well which is
" producing no return upon capital and which does not
" satisfy the requirements of any proper amortization
" scheme?
"A Yes.
"Q So long as the amount of oil coming out of the ground
" is enough to pay the operating expenses?
"A That is right.
"Q Why?
"A Why would they do that.
"Q Yes?
"A Well because if they shut down the well and do
" not sell any oil it is a total loss.
"Q Yes?

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"A If they continue to operate the well and make 50 cents
" per day over the out-of-pocket operating expenses they
" are making 50 cents a day on that basis and they are
" getting a little of their money back even although
" an insignificant amount but if the operating cost
" is $20 a day and they are getting $21.60 back, they
" are ahead in cash $1.60 so if they shut down that
" well they are out that $1.60 a day.
"Q So long as the property operates, and the capital is
" gone anyway?
"A Yes.
"Q All right?"

And then he goes on with his explanation.

"A Now this Model 2 well which is producing 18 barrels
" per day under the daily allowable would still be
" allowed to continue to produce 18 barrels per day
" throughout the entire period that this increased
" drilling might be carried on in the field; there
" would be no further curtailment of that well. That
" is the smallest producer in the entire field and in
" no case, in no well, would the daily allowable be
" decreased to less than 23 barrels per day for any
" other well in the field, even the most inefficient
" and the one with the highest gas-oil ratio; therefore
" it is clear from the application of the present pro-
" ration schedule to the Turner Valley field that no
" single producer would be pro-rated below or even down
" to his daily operating cost on the basis of the
" allowable that would be applied during this period and
" at the price of crude equal to what it now is.

[illegible]

[illegible]

[illegible]

THE CHAIRMAN: Does that boil down to this, or presupposes that because somebody is operating, he is guessing that if somebody operates at $21.00 a day, it costs them any more than that to operate. He takes the Model and he says it must be making---it cannot cost them any more than $21.00 a day because that is what they are getting.

MR. COTTLE: I think he means that the Model will be still producing the same amount of oil even when the other wells are brought in, as it is to-day. So it will not affect that well.

MR. FRAWLEY: Yes, 18 barrels a day, which will bring $21.60 and cost $20.00, and they are ahead $1.60. He says that is enough to keep them operating.

MR. NOLAN: It is all summed up on page 14,162.

THE CHAIRMAN: In the meantime their capital is dissipated. They will have enough to pay the workmen.

MR. COTTLE: He is not suggesting they are all going to come down to 18 barrels a day.

MR. FRAWLEY: He picks the worst one. Now, I think it is summed up on page 14,167. I have been reading from 14,162 nand read right through to 14,167.

" If, however, the price of
" crude should decrease then some of the operators
" might then find themselves in the position of having
" such a small cash return that it would not equal their
" out-of-pocket expenses but that same condition would
" also exist even although the wells were closed in and
" no further drilling allowed; that is a separate

" consideration which depends solely upon the price of
" crude, so it is my firm conviction now, after I have
" had a chance to study it, that if this field is
" developed with additional drilling of some 60 or 80
" wells, so as to bring the potential to some figure in
" excess of 100,000 barrels per day, that there will be
" no hardship on the individual present producers; that
" is at all out of line with what should be experienced
" in the normal development of any field and in no
" case would any single producer be forced out of his
" property or be forced to take an operating loss due
" to that development of the field."

I think that is all I need to read.

MR. HARVIE: There is some place where he gives an estimate that it would take 20 months to develop a potential of 100,000 barrels, assuming the new wells that come in are as good as the average of the wells brought in between May and October, and it would require between 62 to 65 additional wells.

MR. NOLAN: Yes, that is page 14,170.

MR. FRAWLEY:

" MR. FRAWLEY: In your opinion what is the
" extent in months or years of this intervening
" period?
"A It all depends on how rapidly drilling is carried
" out. If drilling is carried out at the same rate
" as it was between May and October of this year it
" will take approximately twenty months to develop a
" potential of one hundred thousand barrels, assuming
" the new wells that come in are as good as the average

[illegible]

[illegible] the study [illegible]

[illegible]

[illegible] Ceph[illegible] [illegible]

[illegible] probably merely [illegible]

[illegible]

[illegible] in some [illegible]

" of the wells brought in between May and October."

MR. COTTLE: On page 14,168 there is also a reference that may be of interest.

MR. FRAWLEY: Yes, he refers to Anglo-Canadian No. 1.

"A Excuse me, may I refer to Anglo-Canadian No. 1 which
" at the present time has a daily allowable of 250
" barrels per day; during this period where the drilling
" is taking place to develop the field the pro-ration
" allowable, the allowable daily production of that
" well will be gradually decreased to a figure which
" is somewhat in excess of 165 barrels per day by the
" time the field has a potential of 100,000 barrels
" per day, but it is still pro-rated back to a
" possible production of 26,000 barrels. Now there is
" Anglo-Canadian number one which well will be pro-rated
" down but it is a rèlatively large well compared to
" what we have been previously discussing and certainly
" that well pro-rated to 160 barrels that could
" certainly pay its expenses when these other wells
" are producing 18 barrels will now meet theirs."

And he says in his considered opinion - well, his next answer is. Well, probably I had better read the question.

"Q But I was thinking more of the general principle.
" Say in the case of wells with forty or fifty or sixty
" barrels there would be some minimum fixed so as to
" avoid putting out of production the small wells.
" Have you any experience of that at all?
"A My conclusion is based upon computations of the actual

" application of the present pro-ration schedule and
" that that very factor that you have in mind is in force
" now. According to the pro-ration schedule none of these
" wells will be pro-rated down so that they cannot
" continue operating profitably.
" THE CHAIRMAN: That is profitably at eighteen
" dollars a day.
"A Profitably on a cash out of pocket expense basis. I
" am not considering the cost of drilling the well.
" In other words they will not be forced out of business.
" Their property will not be taken away from them because
" they can continue operating and meeting their
" operating expense and also they should have something
" left over to pay up on their investment."

Then I asked him the time, the months or years, and he told me. I think that is a fair summary of what he has to say upon that subject.

THE CHAIRMAN: Now, what have you to say about that, having read it. Does it strike you that there are going to be many independents left in the field if every time they drill a well they have to have in contemplation the loss of all their capital; to have the privilege of drilling for something over their out-of-pocket expenses. Where is the money going to come from? On the basis of the investor losing his capital every time? Is not that rather absurd?

MR. FRAWLEY: If that is fundamentally involved in Dr. Brown's premise-----

THE CHAIRMAN: I mean that is just what I would like the benefit of your view about.

MR. FRAWLEY: He says they are not going to be

put out of business.

MR. COMMISSIONER LIPSETT: Those are the people at present in businesss but who are going to come in and drill another well?

THE CHAIRMAN: We are talking about keeping the independent in business. Now, that might not be desirable, I do not know.

MR. HARVIE: Does he not contemplate it will only be for a period of twenty months until the new requirement is developed and then the market will be bigger for every person?

MR. COMMISSIONER LIPSETT: Supposing you have that twenty months over, and had that 60 or 70 thousand barrels a day. You have to carry it for another two or three years to get the pipe line built.

MR. HARVIE: That is true. But that is true in any major enterprise.

THE CHAIRMAN: What I am enquiring about is - is that independent gone in those four or five years. Perhaps he should be. I am not discussing that. But is it not inherent in what he says that everybody disappears except those who have unlimited resources?

MR. FRAWLEY: What is running through my mind is, are we not back to our discussion with Dr. Frey on the cost of production. We asked him why. We were astounded to think that men would go on drilling in Turner Valley when they did not know, they have no figures to amortize their investment. Dr. Drey said that is the oil man's mind. He is thinking he is the one that is going to get the great big well and the great big production. But, as Mr. Cottle

has pointed out to me, 31 wells were completed in the last 12 months. Many of them were independent. Now, why do these independents - the Mayland Interests are a group of very vigorous independents who have been drilling wells in Turner Valley in the last year. Why are those people going in and falling over themselves to go in and drill those wells?

MR. COMMISSIONER LIPSETT: Is it not to provide their own material for their own refinery, as far as Mayland is concerned?

MR. FRAWLEY: Well, they are a producing company after all, and they are selling their production.

THE CHAIRMAN: That might be. Then, you say it comes down to the psychology of people who are willing to go on for four or five years, losing all their capital, so long as they can get their operating expenses.

MR. COTTLE: Mr. Chairman, the only well that is down to the point of losing their capital is Model 2, and it has been there for some years now at 18 barrels per day. The Anglo-Canadian 1 that Dr. Brown referred to is going to shut down to 160 barrels to-day. There is no suggestion that at that rate of production they are going to lose their capital. That is Anglo-Canadian No. 1. You cannot gauge them all by the worst example he gave, which was Model 2.

MR. FRAWLEY: What the Chairman is putting to me is he does not know, it seems to be clear from the evidence that the oil investor does not know with any degree of assurance that he is going to get his capital back, or if so, when. He does not know the life of the well.

MR. COTTLE: He does not know that when he starts to drill in the first place.

THE CHAIRMAN: That is all right. But the man

who is down to 20 barrels a day cannot be doing awfully well. And as wells are drilled to come up to what will attract capital for a pipe line, if your markets are not expanded and you have just got the normal market in the meantime, you are down to 20,000 barrels a day. I suppose it is easy to calculate, is it not, taking the existing wells, where they would be at if their allowables were reduced by virtue of 60,000 barrels a day being pro-rated to the present market. Supposing they have to run for a couple of years at 60,000 barrels and a 20,000 barrel market. Where are they at?

MR. COTTLE: Dr. Brown estimated another 60 or 80 wells. Let us take the average, 70 more wells. There are about 90 wells now. That would be 160 wells. 160 wells producing 20,000 barrels a day would be 130 barrels per day per well, of which one well would be 18 barrels per day. Another well would be 160 barrels per day. That is the point I was making a few minutes ago. It is not proper to think of it in terms of 18 or 20 barrels per day. That is not going to be the case. The field will never be forced that low.

MR. COMMISSIONER LIPSETT: Would not that mean, supposing you doubled your production and with the present market, would not that cut your present pro-ration in half?

MR. COTTLE: That would be about it, yes. There are about 250 barrels per day on the average year round production of producing wells, per well. I just give you another idea-----

MR. COMMISSIONER LIPSETT: You will have to cut that in half.

MR. COTTLE: It would have the effect of cutting it in half, yes.

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To get the 20,000 barrels a day potential. Now there is another factor, the field has so many acres in it and the spacing programme only permits so many wells to drill and with a spacing of 40 acres, with a maximum of 12,000 acres, that is only 300 wells. Now if the field is drilled out, with the present spacing programme, 300 wells, divided into 20,000 barrels a day, let us assume that is the most the whole field will ever produce, that is still 70 barrels per day per well, some of them will do less than that because they cannot produce that and others will produce more than that because they are more efficient.

Now comparing that with the East Texas field, the largest field in the world, the largest production per acre there and for some time has been 17 barrels per well.

MAJOR LIPSETT: Yes, but what is the average cost per well in Texas.

MR. COTTLE: Drilling a well?

MAJOR LIPSETT: Yes.

MR. COTTLE: About $20,000.00 a well I think.

MAJOR LIPSETT: About 1/7th of the cost in Turner Valley.

MR. COTTLE: Yes, and that was the only point that Dr. Brown was making as I see it, was that the producer is not forced out, I mean physically ejected from the business until he gets below the out-of-pocket expenses and then on the other hand a good well like the Anglo-Canadian one would never be forced below the 150 barrels a day.

MAJOR LIPSETT: Take that East Texas you mentioned, Mr. Cottle, they are running 17 barrels a day with a cost of

$20,000.00.

MR. COTTLE: Yes.

MAJOR LIPSETT: Now would that not mean in Turner Valley you would have to get, on the same basis, they would have to have an allowable of about 110 barrels a day in Turner Valley.

MR. COTTLE: No, I would not say so because the 17 barrels a day, first of all have to pay the lifting cost and the overhead which is the same whether the well is at the 1000 feet or whether it is 10,000 feet deep.

MAJOR LIPSETT: But to get the number of barrels on the cost is what I was asking about.

MR. COTTLE: Oh, yes.

MAJOR LIPSETT: Would they not have to have 7 times 17 barrels a day in Turner Valley if the wells are costing 7 times as much.

MR. COTTLE: No, not at all, because although the capital is 7 times as much, the operating expense is about the same, would be about the same and most of it would be eaten up by the operating expenses of the well.

MAJOR LIPSETT: So you do not think it would be a fair inference to get the capital back on the East Texas basis, that you should have an allowable on an average of around 119 barrels a day, 7 times 17.

MR. COTTLE: No, not at all because that would mean you would also be getting back seven times the operating expenses, which is ridiculous because the operating expenses would, well there is no reason for it being much more, it is more but there is no reason for it being much more here than it is in East Texas; the only reason for the difference in the operating expenses at the well head between Turner

Valley and a field like East Texas would be that the wells are closer together in East Texas; there are more of them and it is easier to operate a number of wells than it is to operate only one.

MR. FRAWLEY: Now I wonder if that, perhaps you would like to put down beside this discussion, Dr. Frey's reference to the oil man's mind and you will find that in Volume 95, Page 10,782 and just over the page, it is really 10,781 at the bottom of the page;

> "The oil industry is not a "corner grocery" at all.
> "It is a highly speculative venture. The man or company
> "that is not willing to venture much with the possibil-
> "ity of ultimate profit is not an oil man type of mind.
> "The oil man must believe in himself, he must believe
> "in his judgment, he must be willing to take a chance,
> "a long chance, he must not be discouraged by failures,
> "he must look ahead to the ultimate future. If he
> "drills 18 wells in a row that are dry holes, he still
> "has his mind on the 19th one which is going to turn
> "out to be a well. It is that highly speculative
> "nature that puts the oil industry in a category
> "very different from any other type of industrial
> "activity with the possible exception of its closely
> "allied speculative operation, mining, especially
> "mining for the metals and particularly the metals, non-
> "ferrous metals. The non-ferrous people must run long
> "chances too. For instance it is reported that the
> "Utah Copper Company put, not just a million or two,
> "but something in the neighborhood of 40 million
> "dollars into the development of Bingham before they
> "ever got a cent out of it and they could not be

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"positive of just all of the technicalities that "they were going to have to solve when they started "in to it. A man who is engaged in the mineral "industry must be willing to take a long chance and "that is the type of mind that you do not find in "the ordinary merchandising operations that we know "about in most industries. I think it is definitely "a type of mind. Some one has described an oil-well "driller as a man who produces a hole in the ground "with an optimist on top."

Then, Mr. Chairman, when we rose last night I was discussing Dr. Brown's estimates, using the memorandum which I made from the evidence and I had arrived at estimate number 4, estimate number 4 and I do not think I had left estimate number 4. Perhaps I had finished, I think, with estimate number 4, that is the estimate of Imperial's 1940 operation with the new plant, which shows a return on investment of 15.6%; which will show in Dr. Brown's opinion a return on investment of 15.6% which correctly calculated is 15.02%.

The next estimate is Dr. Brown's estimate of his own substitute plant for the Imperial operation. He discussed that in the evidence at Volume 127, at Page 14,198.

He estimates that a suitable plant of his own design and construction and costing $4,570,000.00 which includes a polymer unit and running 5500 barrels per day, would show a profit of $960,000.00, or 21%.

He deals with that in his Exhibit "711" on Page 18, example 1 and he there revises

the above figure $960,000.00 profit to $870,000.00 profit and shows a return of 19%.

THE CHAIRMAN: How is that?

MR. FRAWLEY: Why he varies it?

THE CHAIRMAN: Yes, which makes a greater profit.

MR. FRAWLEY: No, he reduces his profit when he goes home to Ann Arbor and works at it.

THE CHAIRMAN: Oh, yes.

MR. FRAWLEY: To $870,000.00 and it shows a return of 19% and that is to two decimal places, 19.04%.

He then gives us his estimates of the British American Company or my memorandum then deals with the British American estimates, Volume 127, Page 14,199.

I am speaking of my estimate number 6 in my folder, the estimate of the New British American operation, using the total investment given him by British American of $2,317,000.00 and also using the estimated costs given him by the company, Dr. Brown's estimated profit would be $336,953.00, which shows a return of 14.6%.

However, Dr. Brown was given a correction of $45,202.10, and this reduces the profit figure from $336,953.00 to $301,450.00, which, on the same investment, changes the rate of return to 12.9%, according to Dr. Brown but that correctly calculated on the calculator is 13.01%. Those are dealt with on pages 17 and 18 of Exhibit "711".

Number 7 is Dr. Brown's estimate of his own substitute plant for the British

American operation. That is dealt with in the evidence in Volume 127 at Page 14,204.

Dr. Brown estimates that a suitable plant of his own design and construction and costing $2,425,000.00 would show an estimated profit of $450,000.00 or a rate of return of 18.5%.

When he goes back to his laboratory in Ann Arbor he prepares Exhibit "711" and on page 18 of that Exhibit, example 2, he revises the profit from $450,000.00 to $407,500.00 and shows a rate of return of 16.8% and that is a correct computation, I mean an actual computation.

Then the last, number 8 ---

MAJOR LIPSETT: Do you reconcile that at all in any way, Mr. Frawley, with the British American's own figures, they have a smaller capital investment than Dr. Brown's figures and yet he shows a larger profit, is it just that he disagrees with the British American's estimate of profit?

MR. FRAWLEY: No, he probably diagrees with the plant proposed. I do not know what to say about that, that is his own design, Page 18, are you following this Mr. Cottle?

MR. COTTLE: Yes.

MAJOR LIPSETT: I was wondering if he was suggesting any inefficiency in the plant as constructed.

MR. HARVIE: May I just make a statement on that, Mr. Commissioner Lipsett, you will remember that this Exhibit "711" was filed after our witnesses were here. It was passed down to our company and there is a comment which I was asked to make with respect to it and I will read the

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whole comment or just maybe give the substance of it. The substance is this, that in the British American's figures on cost they used these recoveries actually recovered in this plant, not theoretical but practical recoveries; the reason being that the theoretically perfect recoveries would not supply the demands of this market so they have to take such recoveries as are required to supply the market, which reduces the profits; it does not give the same maximum yield or realization as Dr. Brown takes.

MAJOR LIPSETT: Dr. Brown was really taking a theoretical or a hypothetical recovery?

MR. HARVIE: Yes.

MR. COTTLE: The chief difference being that Dr. Brown's paper plant has a polymerization unit in it.

MR. FRAWLEY: Yes, that should be pointed out, it is just what Dr. Brown thinks he would have done there in East Calgary if he was President of the British American Oil Company, I suppose that is it.

Then the 8th estimate is Dr. Brown's plant, that is his estimate of a 10,000 barrel per day plant, using a capital investment of $7,300,000.00, the profit is estimated at $2,040,000.00 or 28%; that is dealt with in the evidence in Volume 127, Page 14,204.

Then the correction there is as appears from Exhibit "711", Page 19, Dr. Brown revises that profit of $2,040,000.000to $1,875,000.00 and shows a rate of return of 25.6%.

MR. COTTLE: Mr. Commissioner, if you will refer to Page 5 of this memorandum you will find that Dr. Brown's substitute plant for Imperial's operation shows a return of 19.04% compared with the present Imperial's plant or the new Imperial plant on Page 4 of 15.02%, the difference is entirely due to Dr. Brown's plant having a polymerization unit.

MAJOR LIPSETT: And even with that his estimate of cost is somewhat less than the Imperial's actual cost.

MR. COTTLE: For building the plant, yes.

MAJOR LIPSETT: And he puts in a polymerization unit and would have a better recovery, is that it?

MR. COTTLE: Yes, that accounts for the chief difference, the additional recovery of poly gas.

MAJOR LIPSETT: Is it suggested that these two companies have not put in as good a plant as he thinks might have been put in?

MR. COTTLE: Well that may be strictly the interpretation they have not made the kind of plant that Dr. Brown would put in if he were putting it in.

MR. FRAWLEY: It raises the question of these polymerization plants.

MR. HARVIE: I think it raises the question of the point I tried to make, that we have to, in this country, refine to market demands and not to hypothetical, theoretical perfection.

MAJOR LIPSETT: That is really the difference.

MR. HARVIE: Yes, on his plants he would recover a higher percentage of white products which would have a higher market and it would not leave such products

as are needed in the market.

MR. FRAWLEY: I think I must take issue with Mr. Harvie. I would hate to think that Dr. Brown did not have in mind the markets in this province, that he is not making his substitute plant, the he has not conceived an operation in his substitute plant which makes a whole lot of gasoline and no distillates and no diesel fuels and so on. He is shooting for markets and not for purely theoretical recovery; that cannot be so.

MR. HARVIE: He has not taken out, I take it, Mr. Frawley, the percentage of recoveries of various products that we today market and which we have to take out.

MR. FRAWLEY: But he knows what these companies are doing, he knows certainly what the Imperial is doing, to which he has applied his mind most fully, he knows what they did in the year 1938, and he has in mind the operations they are going to shoot for in 1940. When Dr. Brown is discussing the Imperial's 1940 plant he has in mind the 1940 markets and his yields are all calculated upon the markets that they will be supplying.

MAJOR LIPSETT: Do you know if he makes any suggestion at all, Mr. Frawley, that the hands of the two companies have been in any way tied by having these expensive portions of their plants on hand or is it the suggestion, which seems a little difficult to follow, that they did not erect as good a plant, with their skill and knowledge, as is possible.

MR. NOLAN: Mr. Commissioner, it is a matter of opinion whether these polymerization plants should be used. Now, Mr. Cottle, you were going to say something?

in the market.

I think I must take issue with

I would be to think that

this province, but

MR. COTTLE: Yes, I was going to say that I was told by Imperial officials that, at the outset, they certainly planned on a small polymerization unit, the kind that Dr. Brown has in mind here, with the new Imperial plant. Now the new Imperial plant is a completely new distillization unit, a brand new layout completely and it was not a question of not being able to fit a polymerization plant into the new plant, that could have been done quite feasibly but after examining the contents of the cracked gases, Imperial decided it was not worth while to use a polymerization plant; now that is just a difference of opinion between Dr. Brown and Imperial. Dr. Brown, of course, had no opportunity of studying the actual hydro-carbon content of the cracked gasoline. Now it was after careful laboratory analysis of those gases that Imperial decided not to build a polymerization plant.

MAJOR LIPSETT: Their judgment would not be influenced in any way by the practical necessity of having to use as much of the existing plant as they could usefully use.

MR. COTTLE: Oh, not at all.

MR. NOLAN: Oh, no.

MR. COTTLE: There is ample space in the refinery yards to build any size plant and this present unit is completely set up by itself. It is away from any other part of the plant.

MAJOR LIPSETT: It does not affect the question of a polymerization unit, any considerations of the plant they have?

MR. NOLAN: Not at all.

J. J. Frawley, K. C.

MR. COTTLE: No, the way this plant is being built, a complete unit is being built by itself and then the question is as to moving over some of these other units and fitting them into the new unit.

MAJOR LIPSETT: It would follow from that then that if one accepted the viewpoint of the Imperial or the British American from a practical point of view, that Dr. Brown's estimates are really of not much value as to that increased rate of return, I mean if from a practical point of view they decided against his unit, one must expect, I suppose, that the rate of return that he visualizes cannot be accepted by us.

MR. NOLAN: It just boils itself down to a difference of opinion between Imperial officials, who were quite free to build a polymerization plant if they wished to, and Dr. Brown.

MR. FRAWLEY: Of course we do not know, if Dr. Brown were confronted with what Mr. Cottle says he was told by Imperial officials, he might have a dozen answers to it and demonstrate that their judgment just was not sound and yet on the contrary he might say, in view of that Imperial work, "I agree with them that that polymerization plant is not suitable". Now we are in that position and that is why I am going to suggest we take the 1940 Imperial operation, instead of Number 5, because then it is not a question of a polymerization plant against no polymerization plant.

MR. HARVIE: For the purposes of the record, our company also gave consideration to the installation of a polymerization plant in its new refinery and came to the conclusion that it was not advisable to build it.

[illegible]

MR. FRAWLEY: Yes.

MAJOR LIPSETT: Did Dr. Brown express any strong opinion to show that he had considered whether a polymerization plant was desirable, Mr. Frawley?

MR. FRAWLEY: You see, you have to take the Exhibit "711", as far as volume 127, 14,198, he says very little about it there, of course.

MAJOR LIPSETT: Yes.

MR. FRAWLEY: "My estimated invested capital

> "is', so much; " that is composed of two items, a "plant costing $3,750,000 and working capital of "$1,000,000; on that plant, which is really a "different plant in some respects than the Imperial, "better in some ways and not so good in others, I "estimated a net profit of $960,000.00, which corres- "ponds to the 21% return as compared with 15.6% "return for the Imperial plant."

Now that is all he says about it, which is practically little; in his Exhibit "711" he does not say a great deal more. He just says this is his plant, a plant of 6500 barrels reading from Page 18 of Exhibit "711";

> "A plant of 6500 barrels per daily capacity runs "5500 barrels of crude per day and about 5% of raw "natural gasoline. The plant also includes a "polymerization unit."

That is all he says and that concludes it and I assume similarly with the British American he just simply makes the statement, yes, on the same page, a polymerization unit is included. He does not try to justify it or try

to argue it out as against the Imperial's judgment. He just says you wanted my opinion and that is how I would do it.

MAJOR LIPSETT: You would have to assume then that the two companies made a mistake for which they should suffer before you could accept this rate of profit which he gives.

MR. FRAWLEY: Oh I think that follows. You would have to take his judgment against theirs and say, "Well now theirs is actual and Dr. Brown's is the ideal and which is the one which should be the guide for this Commission". Well in any event, it is my submission that the Commission should have regard to estimate number 4 in this memorandum as the estimate of Imperial's 1940 operation, 15%. Now I say that because in my submission it is a better guide for now, for this month of December and more particularly for the next month of January and February, presuming that the Commission's report will be dated say ---

THE CHAIRMAN: Now.

MR. FRAWLEY: Say the 31st of January, 1940. Then the Commission ---

THE CHAIRMAN: Are you by any chance optimistic?

MR. FRAWLEY: Yes, I may be a little optimistic but knowing the capacity of this Commission for hard work and tight places, I am just trying to put it against my own capacity, I certainly would not like to promise that.

MR. NOLAN: It is perhaps a question of whether the argument finishes by then.

MR. FRAWLEY: This is not an argument.

MAJOR LIPSETT: It is very helpful. You are

really making your suggestion then that we should take Dr. Brown's estimate on Page 4 and not what he says about his estimate on Page 5?

MR. FRAWLEY: Yes, I say whatever purpose you put it to, you can comfortably relax and say the Imperial Oil company is going to make 15% on its 1940 operations; that is the purpose of it. Now what we do with it is something else but you need have no fears as to them being hardly dealt with or that they are down in the realm of even 12% as they were in 1938, or even 14%, they are going to make on their 1940 operation, 15% and I think it is necessary and sensible to suggest that the Commission should take that because your report then will be tied to something more in keeping with the times because after all the other alternative is if you went back to the 1938 actual operation, you would be making recommendations, whatever those recommendations might be, predicated upon the actual operation of 1940, using a plant that has gone, ceased to exist.

THE CHAIRMAN: 19 what?

MR. FRAWLEY: If you went back to the 1938 operation you would be ---

THE CHAIRMAN: You said 1940.

MR. FRAWLEY: Did I say 1940, the 1938 operation and talking about a plant that physically and actually had just about ceased to exist as a plant because I am told it is getting to be a matter of days or weeks when the new plant will be on stream, so when I suggest you should take the 1940 and that you have the opinion of Dr. Brown, who after all is a very competent engineer and what is perhaps is most important to this Commission, my friend Mr. Nolan

has not raised any criticism of him, none of his witnesses have raised any form of criticism of him and pointed to anything being wrong with Dr. Brown's estimate for 1940.

MR. NOLAN: We did raise this point and we raise it again, that on your figures of 15.02% you are taking Dr. Brown's anticipated throughput, 5500 barrels a day and not the 4750 barrels which is the actual throughput in the history of this plant.

MR. FRAWLEY: I wonder in that connection ---

MAJOR LIPSETT: What is that figure again?

MR. NOLAN: 4750.

MR. FRAWLEY: I wonder if apropos of what my friend has said, I should call the attention of the Commission to what the Oil Industry is doing in 1939. Now both my friends have been good enough to say that if this in any wise constitutes new evidence, that they have no objection to it being submitted to the Commission. I thought it was my duty to try to bring the Commission up to date. You will recall that the gallonage figures we have are only Exhibit "456" and that is for the 12 months of 1938 and it seemed to me to be too bad that, having just about reached the end of 1939, that we did not have for the Commission's information what the companies did or were doing, are doing in 1939. I have here now the best I can get at this date, it shows the business of the companies up to the end of September 1939 and I now make the suggestion that if the Commission is, as they will be, engaged in the labors of preparing a report towards, in the latter half of the month of January, that Mr. Cottle could obtain for them the 1939 business; that is not anything which is contro-

versial. I think it could be very useful and I think my friends agree that the Commission should have the benefit of the statistics, the record of the business for the whole of the year 1939 and Mr. Cottle could get that for you any time after the 15th of January; by the 15th of January all the returns will be in.

Now I have in front of me that record prepared in the identical fashion to Exhibit "456" --

THE CHAIRMAN: Of recorded throughputs?

MR. FRAWLEY: Records of the business of the companies in Alberta, taxable sales, more than taxable sales, everything, a complete record of the gallons of gasoline and heavy fuel oils, coal oil, everything which these companies manufactured and sold in Alberta in the year 1939.

You will recall, Mr. Chairman, you have that for the year 1938. You have had that now for some time. It is Exhibit "456". Let me get it for you, Exhibit "456".

(Go to Page 17,163)

J. J. Frawley, K.C.

MR. FRAWLEY: Exhibit "456", Mr. Chairman, is a statement prepared at my request by the Provincial Secretaay's Department and it is,as I pointed out at the time, I am very proud of it, it is a very valuable document. It shows precisely the sales made by every company, importers and all, in the Province. I am told no other Province in Canada keeps its records in such shape as to be able to present this information to the Government or to any Commission.

THE CHAIRMAN: Does that show the crude oil throughput?

MR. FRAWLEY: No, not the crude oil throughput. It shows the complete Imperial Oil Company's sales in Alberta. Sales in Alberta. What they sold outside the Province we have not got that. Of course we have that in other exhibits. We have the Imperial Oil throughput, of course. For 1938, of course we have, in the evidence on refining, in Exhibit "308" as a matter of fact we have the refinery throughput for the Imperial Oil Company.

THE CHAIRMAN: Is it 4750? You see Mr. Nolan says in criticism of your estimate, or Dr. Brown's estimate on Page 4, estimate 4, that that is all right but it does not reflect a profit on 4,750 barrels daily in the new plant.

MR. FRAWLEY:- No.

THE CHAIRMAN: Which experience shows is all that has been and not the 5500 upon which Dr. Brown predicates his figures, his profit figure.

MR. FRAWley: There is nothing between us at all. 4,750 was the 1938 operation. Sure.

MR. NOLAN: And that is contained in estimate 3. But Mr.Frawley takes estimate 4 in preference to estimate 3, and he takes the 5,500 barrels anticipated instead of 4,750 actual.

MR. FRAWLEY: Actual. But I am talking about the increased business of the Imperial Oil Company. Certainly. So is Dr. Brown, and I am going to show you some evidence as to what they are doing in 1929. I say it is up, up, up, every year. I am not going to be a defeatist about this. My friend is like he was about the pipe line throughput. He cried down the throughput and where is the throughput in the pipe line this year? Why, it is away way up.

MR. NOLAN: Where will it be next year?

MR. FRAWLEY: It will be away up.

MR. NOLAN: Will it?

MR. FRAWLEY: Now let us see what 1939 is doing to this Company, or how they are doing in 1939. I can give you something, but I suggest Mr. Cottle can give you the complete 1939. Not 1940, of course, that is just speculation. Is Mr. Nolan seriously going to speculate that they are going to go backwards? Let us see what they did in 1939. This Province is growing and more gasoline is being consumed all the time.

MR. NOLAN: There is no evidence that the Province is growing.

MR. FRAWLEY: No?

MR. NOLAN: No.

THE CHAIRMAN: Mr. Frawley, have we evide ce as to what the experience of Imperial was in

1939. Did not we deal with the first six months of the year?

MR. FRAWLEY: I have been interrupting myself, or I have been interrupted. But I have right now an important document and I would very much like to present it to the Commission. It is a statement showing the gallons of fuel oil, which means everything in this Province, consumed in Alberta, from January 1, 1939, to September 30, 1939. It is a complete picture excepting October, November and December. I suggest to you that this can be supplemented by a further statement later on, after the 15th of January. It can be rushed for this Commission. Now there is the picture for 1939. I will offer this statement so as to have it before the Commission.

THE CHAIRMAN: What is it?

MR. FRAWLEY: It is a statement of the gallons of fuel oil consumed in Alberta, January 1, 1939 to September 30, 1939.

THE CHAIRMAN: That is new is it?

MR. FRAWLEY: Quite. It is a new statement prepared for me, at my request. I always had in my mind that I would like to give the Commission something for 1939 to show what the companies are doing.

THE CHAIRMAN: Does that show the throughput in the refinery?

MR. FRAWLEY: No, it shows the increased business in the refinery throughput.

THE CHAIRMAN: The fair inference is, therefore, that more oil has been refined.

MR. FRAWLEY: Yes.

THE CHAIRMAN: Quite so. I, for one would not know how to calculate how much more.

MR. FRAWLEY: Let us ask Mr. Nolan to tell the Commission what they are putting through in 1939. That is the simplest thing in the world. Here we are at the 20th or something day of December and my friend can let the Commission have it within a few days complete to the end of the year. That is better than I show. I have to interpret and argue from what I say to you and show you.

MR. COMMISSIONER LIPSETT: Would you take that figure and would you say from that that the Imperial has held its position approximately in the market?

MR. FRAWLEY: They gained.

MR. COMMISSIONER LIPSETT: And they would have a proportionate increase of this throughput that those figures show for the whole year.

MR. FRAWLEY: Every company is here. All the Imperial's figures are here for the first ten months of 1939.

THE CHAIRMAN: I am just thinking out loud. I wonder is that the proper approach. You say the Imperial at 5,500 barrels get 15%. You say they have increased this year. I suppose we are not concerned with fixing something for the Imperial. If the market has not increased then if tho Imperial has increased it has only increased at the expense of somebody else. If they have a greater profit, then John Smith or John Jones, who are also in the refining business, have had a lesser profit, if the market has not increased.

MR. FRAWLEY: But if the whole market

has increased?

THE CHAIRMAN: If the market has increased that is another matter.

MR. FRAWLEY: Surely, and the market has increased. Now I have only ten months.....

MR. COMMISSIONER LIPSETT: Nine months.

MR. FRAWLEY: Nine months, and I cannot do it myself and that is why I say I think it would be very proper that this Commission should have these figures, my friend's figures for throughput, and all the other companies for throughput. Then you will know what they are doing for 1939, and then you will have to speculate for 1940, but it is not too large a task.

THE CHAIRMAN: Has not the Conservation Board this throughput?

MR. COTTLE: Yes, up to the end of October.

THE CHAIRMAN: Do you see any objection to the introduction of this, Gentlemen?

MR. NOLAN: Other than that everything that goes in has no explanation attached to it. We are putting these figures in and I do not know what explanation might be offered in respect to them.

MR. HARVIE: I have given Mr. Cottle, already, the crude we have received through the Valley pipe line for the year 1939 up to the 30th of November. But in using that figure of throughput, 998,233 barrels, I want to point out that approximately 20% of that. 197,000 barrels, has gone into storage. In other words, since we have opened our new refinery and so on, we have accumulated storage with the result that you would have to

take, to get our throughput as far as the refinery is concerned, you would have to take 20% off that figure.

MR. COMMISSIONER LIPSETT: As far as the marketing is concerned?

MR. HARVIE: As far as what has gone theough the refinery. That does not necessarily give the marketing, because at the same time possibly we have been making refined products and storing.

MR. COMMISSIONER LIPSETT: What you have accumulated is crude oil?

MR. HARVIE: Yes,

MR. COTTLE: The Conservation Board's figures record all inventories of crude oil. They do not record inventories of refined products. If there is a big increase in refined products' storage, the figure must be altered as Mr. Harvie says.

MR. FRAWLEY: I am anxious to place before the Commission as much evidence as I can to warrant the Commission to come to the conclusion that about 5,500 barrels s day is a reasonable estimate. Now how can we get that before the Commission?

MR. COMMISSIONER LIPSETT: It would certainly be useful to have it, because it would at least mean whatever we thought would be based on the latest available conditions.

MR. FRAWLEY: That is right. There is not any harm, I presume, Mr. Chairman, in at least giving you the picture for the first nine months. I think it would be better when it is for the whole 12 months, and then you can compare it as against 1938.

THE CHAIRMAN: Mr. Cottle, you have the

refinery run or you have what goes through the pipe line?

MR. COTTLE: The Conservation Board, the refinery consumption of crude. We get the reports from each refinery.

MR. HARVIE: Refinery deliveries.

MR. COTTLE: No, Mr. Harvie. We get reports from each of the producers. We also get reports from each of the refineries. We keep a very comprehensive set of statistics which show what each producer produces, what he has on hand in his lease tanks; what he sells and to whom he sells it. Then we have a record for each refinery showing what each refiner has on hand at the first of the month, and what he buys and what he sells and what he has on hand at the end of the month, and the final result is the amount of crude that has disappeared in the refining.

THE CHAIRMAN: I cannot see any objection, Gentlemen, to what went through the refinery. I do not know how any explanation can change that as to quantum.

MR. NOLAN: Only the increase in the inventories at the end of the refining year.

MR. COTTLE: Only the increase in the refined products' inventories, because these figures show what ran through the stills; what came out of the storage tanks and ran through the stills.

MR. FRAWLEY: What the Commission would be interested in in checking the reliability of Dr. Brown's estimate, would be the refinery run and not what you did with the gasoline after you got it.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

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[illegible]

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[illegible]

[illegible]

[illegible]

[illegible]

MR. COTTLE: What Mr. Harvie is pointing out is this, it may be that the refinery run is greatly increased in 1939 for the purpose of building up much larger stocks of refined products than were on hand at the end of 1938.

MR. FRAWLEY: But could not that be easily checked, and any possible discrepancy that it might make in the estimated runs accounted for?

MR. COTTLE: Yes, but not from the Conservation Board's records, that is the only point. You can get that information from the plant but not frok the Conservation Board.

MR. FRAWLEY: I submit we should not stop at the Board, but should get it from the plant. I think the Commission should have the most complete evidence possible.

MR.COMMISSIONER LIPSETT: If you get it from the Conservation Board it is liable to this criticism of Mr. Harvie's is it not?

MR. COTTLE: That is right.

MR. HARVIE: He might have crude oil that has not gone through the plant at all.

MR. COTTLE: Not the crude oil, because the figure of the Conservation Board take into consideration the crude oil that remains in the tanks and determines how much oil was refined. But it does not take into consideration any fluctuation in refined products in the plant.

MR. COMMISSIONER LIPSETT: You do know, this point of Mr. Harvie's is not a difficulty so far as the throughput of the refinery is concerned.

MR. COTTLE: Not at all.

MR. HARVIE: It all depends what figure you take. If you take the throughput of the pipe line then there are two items will have to be adjusted, that is the crude storage and then the refined products accumulated. But if you take as Mr. Cottle suggests that that we have actually used within that period, then you only have to deal with the accumulated refined products.

MR. COMMISSIONER LIPSETT: What we were interested in was whether this estimate of Dr. Brown's of the Imperial throughput for 1940 was sound.

MR. HARVIE: Exactly.

MR. FRAWLEY: The only difficulty would be an abnormal run, an abnormal run to build up refined products' storage. It seems to me that is not insurmountable to seek out what the refinery run of Imperial was in 1939, which is the thing present before us, as I understand, after making whatever allowances the Company says should be made for abnormal runs to build up refined products' stocks.

MR. COTTLE: There is no difficulty. All we need to know is what the refined products' inventories were at the end of the year, the first of the year and then the first of the previous year.

MR. FRAWLEY: There is no trouble at all as far as you are concerned?

MR. COTTLE: No.

MR. FRAWLEY: Then I respectfully submit that we should ask the Companies for that information. Mr. Cottle can be apprised of any modifications which would seem to be required. It seems to me rather important that the Commission should know what the companies did in 1939. Otherwise, I am asking the Commission to jump from 1938 to

1940. If we knew about 1939 the jump would be a much easier one.

THE CHAIRMAN: There is no question about the desirability of having the information. The question is should we make use of information that we now receive at this date, if there is any explanation that could be made about it that would give us a different point of view with regard to that information.

MR. FRAWLEY: May I suggest we will be here for a day or so yet and might we not ask Mr. Nolan - it must be a figure that needs very little alteration to bring it up to date, there are only a few more days.

MR.NOLAN: It is not the end of the year yet.

MR. FRAWLEY: No, but to find out whether his people have any extreme circumstances they desire to call to the attention of the Commission before they offer it, and let us see what progress we can make.

MR. NOLAN: I would suggest after the end of the year, when Mr. Cottle is at work with the Commission, that he communicate with the refining branch of my company and I am sure they will continue to give him all the information he requires, by correspondence from Mr.Cottle to them. He knows exactly what he wants. It is too early to ask for it now.

MR. FRAWLEY: Would you be content after Mr. Cottle has informed himself, received a statement of that sort from your client, he might bring it to the attention of the Commission?

MR.NOLAN: Yes, if my people are willing to give that information to Mr. Cottle, I am

quite content that it should be used in his discussions with the Commission.

MR. COTTLE: And they can give such explanations as they see fit.

MR. NOLAN: Yes. My point was not that there was not an increase. My point was we were taking an anticipated figure of 5,500 barrels as opposed to an actual figure of 4,750, and I simply said to Mr.Frawley "Why don't you take your fair estimate on 4,750 and the return on the investment on that figure, because you know about that."

THE CHAIRMAN: Well it is understood we will receive from Mr. Cottle the Conservation Boards's figures supplemented by such information as Mr. Nolan's client may furnish you with on request?

MR. COTTLE: Yes.

THE CHAIRMAN: And, of course, the B.A., equally.

MR. FRAWLEY: That is closer to the point in issue and I take it the gallonage figures for the ten months' period are not so important.

MR. COTTLE: Of course these figures for the B.A. will not mean very much by reason of the fact that they have a new plant in 1939 and their operation in 1938 was......

THE CHAIRMAN: Well we will try to keep it as simple as possible and we will ask Mr. Nolan to furnish you with that information.

MR. NOLAN: My friend has a statement for nine months. We have had that shown to us and we have agreed that might go in.

MR. FRAWLEY: That is the statement I

have been talking about. My friends have had that for some time.

THE CHAIRMAN: That is not crude?

MR. FRAWLEY: No, that is gasoline.

MR.NOLAN: We have had it before us and we have agreed to let it go in.

THE CHAIRMAN: Then let us put itin.

MR. FRAWLEY: Yes, I showed it to my friends and they see no objection at all.

THE CHAIRMAN: What exhibit is that?

MR. FRAWLEY: It will be Exhibit "731".

THE CHAIRMAN: What do you call that?

MR. FRAWLEY: I call it a statement showing the gallons of fuel oil consumed in Alberta. Fuel oil, of course, being everything, gasoline and all. Consumed in Alberta, January 1, 1939 to September 30, 1939.

DOCUMENT IN QUESTION IS NOW MARKED EXHIBIT "731".

MR. FRAWLEY: That was prepared by the Fuel Oil Tax Branch of the Department of the Provincial Secretary. I think you might usefully make a note, Mr. Chairman, that it is prepared in the same fashion as Exhibit "456". It is just the same kind of information, as is in "456". Exactly the same. Exactly. But Exhibit "456" is for the complete year 1938.

THE CHAIRMAN: What Dr. Brown says is if they take 5,500,barrels they should have a profit of 15.02%. Now I have been interested throughout in what Mr. Halverson has had to say. Would you refer me to his discussion of Dr. Brown's evidence?

MR. FRAWLEY: Mr. Halverson would not

have been saying anything about this, Mr. Chairman. You see he is marketing.

THE CHAIRMAN: No, he did not deal with the whole picture.

MR. FRAWLEY: Oh no. That is why I say I do not think anybody except my friend pointed out the possibility of not coming up to Dr. Brown's anticipated throughput. That was just pointed out here recently.

THE CHAIRMAN: But the Imperial does give us amongst them all - I do not carry in my mind who - what their profit was.

MR. FRAWLEY: For 1938. Oh yes, indeed. You can go to Item No. 1 in my folder.

THE CHAIRMAN: Yes. Now, Dr. Brown is accepting that isn't he?

MR. FRAWLEY: Yes. Just at Page 14,194 of Volume 127.

THE CHAIRMAN: Who is speaking there?

MR. FRAWLEY: Dr. Brown only.

THE CHAIRMAN: Has the Imperial said anything which is contradictory of what Dr. Brown has said with regard to their actual profits?

MR. FRAWLEY: Oh no.

MR.NOLAN: No. There is complete unanimity on these refining exhibits that my friend has tendered.

THE CHAIRMAN: Then Dr. Brown comes along to 1940?

MR. FRAWLEY: Yes.

THE CHAIRMAN: Has the Imperial, through any witness, said anything that would serve to show that this

was wrong, assuming 5,500 barrels to go through?

MR. FRAWLEY: No. Let me recall your mind about that. There was not a word spoken by the Imperial in this Court Room about 1940. You remember when we asked Dr. Brown to do a little something better for us than give us the historical picture for 1938, that he went to Toronto, and he talked in Toronto to Mr. McCloskey and the other refining people there, and he has brought this information back with their full knowledge and consent. In fact you see from my folder that he is using the Imperial's own estimated costs, and using their own capital investment. That I show in my memorandum, and that is the fact. That all came out of the Imperial offices in Toronto. So there is no exception at all, and subject to the one exception......

MR. NOLAN: It is hardly.....

MR. FRAWLEY: My friend suggests that this little folder of mine should be filed, just to have it in.

THE CHAIRMAN: We think it is extremely valuable and we certainly intend to use it. Well, I see no objection to that at all.

MR. HARVIE: It is just a matter of easy reference. We are referring to it so often.

THE CHAIRMAN: All right, Exhibit "732".

MR. FRAWLEY'S FOLDER ON DR. BROWN'S ESTIMATES IS NOW MARKED EXHIBIT "732".

MR. FRAWLEY: I am not dismissing my friend's objection lightly at all, but subject to that there is complete agreement that this 1940 picture which Dr, Brown is painting is a perfectly proper one. They are all their

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own estimated costs, runs and yields. Well, not runs. Everything but runs.

MR. NOLAN: I agree with that. It is not strictly an objection. I do not know whether Dr. Brown is right or wrong about this 5,500 barrels. All I said was it was a hypothetical figure and it must remain so, however much information we got about the year 1939. Now, in Volume 127 at Page 14,229, there is a short discussion about this 4,750 barrels.

MR. FRAWLEY: Let me say at once, I am quite wrong about that. My friend is not bringing it up here for the first time. He queried that very same thing with Dr. Brown when he gave that evidence.

THE CHAIRMAN: Just read that.

MR. NOLAN:

"Q Dr. Brown in the estimate of what the new
" Imperial plant will do in 1940 you have taken
" a figure of 5,500 barrels per day?
"A That is correct,
"Q As I understand it the figure of 4,750 barrels
" was the crude requirement to make our products
" as we required them in the 1938 operations?
"A That is correct.
"Q How do you arrive at the difference between
" 4,750 and 5,500?
"A That is simply my estimate of the increased
" throughput that the Imperial plant will probably
" be able to run in 1940.
"Q Yes, that in a word is assuming that the conditions
" in 1940 will be better than the conditions in 1938?
"A They are at least different.

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"Q They are different on the side of increased
" throughput?
"A That is right. "

and then it goes on to other discussions.

MR. FRAWLEY: The next question is the same.

"Q And that volume as you told us this morning
" it just depends of course to a very large
" extent in this country on the crop conditions,
" which in turn govern market requirements.
"A That is right. "

You see I do not know and perhaps my friend does not know but it just occurred to me this minute, probably in his discussion in Toronto with the Imperial about their estimated costs and yields, that probably they agreed. It was just an estimate, but after all it was a reasonable figure for him to take. It is strange there is no explanation of it. He just says 5,500 barrels. I do not think he would of himself make up the 5,500 barrels. He does not know anything about crop conditions in this country, and I thought perhaps he and Mr. McCloskey had talked it over and had agreed that it was 5,500 barrels. However, I think the 1939 information will be interesting.

THE CHAIRMAN: Well that is understood.

MR. FRAWLEY: Then I need say no more about that.

THE CHAIRMAN: You have as an exhibit the Conservation statement and anything that is added to it by Mr. Nolan at Mr. Cottle's request.

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MR. FRAWLEY: Now the next consideration is Dr. Brown's rate of return. Dr. Brown says 15%.

MR. NOLAN: Mr. Frawley, I do not want to be objecting all the time. But you did say were there any objections to this rate of return. It has to be borne in mind if this Commission comes to the conclusion that the cost of the raw material is to be increased by 8 cents a barrel, and if that is not to be taken into consideration in any change in tank waggon prices, then we are going to find ourselves in the position of narrowing the spread on the refining operations, and that will have to be looked into by Mr. Cottle. That will again involve some alteration in these figures which Mr. Frawley is giving you now. I am not saying that 15.02% is not right. But 15.02 is based on the circumstances as they have been existing and not on the circumstances that might exist if the 8 cents goes into the cost of raw materials.

MR. COTTLE: The circumstances as they existed before July 3rd?

MR. BOLAN: Yes. It will narrow the spread, and narrowing the spread decreases the net profit which in turn affects the rate of return.

MR. COTTLE: 2½¢ per barrel less Income Taxes.

MR. NOLAN: I do not know what that is in money, nor do I know what difference it makes in the rate of return. It is naturally a matter of calculation and you can work that out very easily.

MR. COMMISSIONER LIPSETT: Is the last reduction that was given also to come out of this rate of return, Mr. Cottle?

MR. COTTLE: No, the last reduction did not affect jobbers' prices and these rates of return are based on the refinery price, which is the jobbers' price.

MR. COMMISSIONER LIPSETT: It is just the $2\frac{1}{2}$ cents?

MR. COTTLE: Yes, the $2\frac{1}{2}$ cents increases the cost of the crude and therefore narrows the refinery spread to that extent.

MR. FRAWLEY: I was going to make a very brief reference to the new exhibit "731" and then to call attention to what the Imperial's gallonage was for these first nine months. Their gallonage for the whole year 1938 was 39,167,346 gallons, and one-tenth. Their gallonage for the first nine months of 1939 was 31,787,794 gallons.

THE CHAIRMAN: Well we will rise now.

(At this stage the Hearing was adjourned until 2 P.M.)

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

MR. FRAWLEY: Mr. Chairman, just before we rose I was asked to have Mr. Cottle make a calculation to see what effect on the Imperial's rate of return, estimated rate of return of 15.02% in 1940 would these recent reductions, the recent, the increase of 2½¢ rather in the price of crude at the refinery, what difference that increase would make in the estimated rate of return which we have now at 15.02%.

MR. COTTLE: The 2½¢ a barrel increase on the Imperial's plant operating at 5500 barrels a day would increase the cost of crude 2½¢ a barrel on 2,007,500 barrels of crude, amounting to $50,187.50.

THE CHAIRMAN: Where do you get that figure.

MR. COTTLE: The 2,007,500 barrels.

THE CHAIRMAN: Yes.

MR. COTTLE: Is 5500 barrels a day multiplied by 365 days. 2½¢ a barrel on that amount of throughput amounts to an increased cost on crude for the year of $50,187.50 and the profits of the company would be decreased accordingly; income tax however would be decreased by 22% of the $50,187.50 or $11,041.25 leaving the net earnings of the refinery $39,146.25 less; that sum represents a decrease in the return on the investment of $4,728,000, pardon me, I didn't say that properly, that decrease in earnings on the investment of $4,728,000 represents a rate of return, a reduction in

the rate of return of .83%, reducing the 15.02% to 14.19%.

The same computation in respect of the same plant operating at 4750 barrels per day represents a decrease in the rate of return of .72%, reducing the 12.14% to 11.42%.

Expressing this reduction in earnings----

THE CHAIRMAN: Would you mind just pausing there, Mr. Cottle, the 12.14% on the estimate----

MR. FRAWLEY: Estimate number three.

THE CHAIRMAN: Estimate number three.

MR. COTTLE: Becomes 11.24%.

I have also computed this reduction in terms of gallons of white goods manufactured and the increased cost of crude represents an increase in the cost of manufacturing white goods of .07¢ per gallon, 7/100 cents per gallon.

THE CHAIRMAN: The cost of producing white goods did you say?

MR. COTTLE: Yes, expressing it all in terms of white goods.

Now I have made the same computations for each of the other examples given by Dr. Brown if you care to have those, if you wish to have them.

THE CHAIRMAN: Yes I think it would be nice to have them on the record.

MR. COTTLE: The B. A. new plant----

MR. FRAWLEY: That is Estimate number six.

MR. COTTLE: Running 2940 barrels per day----

MR. FRAWLEY: That does not appear in the estimate but that is the figure which he uses.

MR. COTTLE: Oh, it does not appear on your sheet, no, but that is what the throughput is.

MAJOR LIPSETT: On page 6 you say.

MR. FRAWLEY: Yes.

MR. COTTLE: The 13.01% is reduced by .9%, leaving 12.11%.

MAJOR LIPSETT: Is that .09.

MR. COTTLE: No, .90. Dr. Brown's substitute plant for Imperial's, showing a return of 19.04%----

MR. FRAWLEY: That is number 5, yes.

MR. COTTLE: There is a reduction of .86%, leaving, changing the 19.04% to 18.18%.

THE CHAIRMAN: That is page 5.

MR. FRAWLEY: That is page 5, item 5, substitute for the Imperial.

MR. COTTLE: In Dr. Brown's substitute plant for the B. A.'s----

MR. FRAWLEY: That is item 7.

MR. COTTLE: The 16.80% is reduced by .82% leaving 15.98%.

MAJOR LIPSETT: What is the reduction.

MR. COTTLE: .82%.

With Dr. Brown's 10,000 barrel plant the 25.68% is reduced by .97% leaving the rate of return 24.71%.

MR. FRAWLEY: Then, Mr. Chairman, I might resume then what I was saying and that now brings me to a discussion, as I said now, I am making the submission that the Commission is warranted in using estimate number 4, Dr. Brown's estimate of the Imperial's 1940 operations, 15%, or as amended by Mr. Cottle just now, making it 14.19% and I intimated why I was making that contention, it being more current and a better all-around figure for the Commission to take and only leaving undetermined the question of the throughput which Dr. Brown has estimated at 5500 and in my submission to the Commission, the Commission is fully warranted in accepting.

Now Dr. Brown's rate of return must be discussed.

He says in volume 127, pages 14,209, starting at page 14,209, Volume 127, page 14,209 and the following pages,

"Q. MR. FRAWLEY: Now then, the thing
" that has to be discussed then I take it
" is your views about the rate of return
" which these operations show?
"A. Yes, that was one of the questions which
" was asked me when I was here before.
"Q. Now I would like to have your views
" either in response to that one general
" question, I would like you to state your
" views on the propriety or otherwise of
" each and every one of these rates of re-
" turn, what you have to say about them?

"A. Well in estimating the proper rate of re-
" turn to an oil company, refining company,
" which takes all the risks, the business
" risks involved, I have assumed,-and which
" I believe to be a figure which is substan-
" tially sound,-that a 15% return on the
" monies invested in plant should be allowed;
" This is not an average figure that might
" exist over a period of 25 years but it is
" a figure which should not be regarded as
" excessive due to the risks and the vicis-
" situdes of ordinary business ventures; the
" money which is invested in inventories about
" 6% and on the money which is tied-up in
" accounts receivable 7%. If we take those
" figures we find that the average depre-
" ciation on the total invested capital
" figures out to be about 13.1%."

"Depreciation" is the word in the transcript but the word which he should have said is "return". "Return" is what he meant, the average rate of return.

THE CHAIRMAN: Just a minute, it might confuse us, you are at page what, line what?

MR. FRAWLEY: Yes, at page 14,209, the seventh line from the bottom, Mr. Chairman, he says, he uses the word "depreciation". Now he immediately corrects it of course, he immediately corrects it and it is perhaps hardly worth mentioning because Mr. Nolan says "depreciation" and I say:

"MR. FRAWLEY: Did you say depreciation?

"A. I beg your pardon I am getting tired, that
" the average rate of return 'so he changes
"depreciation" to "rate of return", and I will repeat

"A. I beg your pardon I am getting tired, that
" the average rate of return on the total
" capital is about 13.1%; that is arrived at
" by about 77% of the total capital being
" in the plant and approximately 11½% of it
" being in inventories and accounts receiv-
" able; that is subject of course to correct-
" ion and modification."

MAJOR LIPSETT: Did he say how much he did use on the plant.

MR. FRAWLEY: 77% on plant and 11½ in the balance you see.

MR. COTTLE: 11½ on accounts receivable and 11½ on inventories.

MR. FRAWLEY:

"Therefore, any return on invested capital in
"the neighbourhood of 13% certainly should not
"be regarded as excessive because that might
"indicate simply a reasonably good year which
"is required to compensate for the lean years
"which have proceeded it or have followed, or
" "will follow; now that figure may be compared
"with the percentage returns as have been es-
"timated and it is seen that the estimated re-
"turn, that the actual return on the Imperial
"plant in 1938."

simple comparison which anyone can make and he shows the

returns as compared with the returns I have shown. Now right now Mr. Cottle and myself----

THE CHAIRMAN: You first said 15%, didn't you?

MR. FRAWLEY: 15, yes, on the money invested in plant.

THE CHAIRMAN: Oh, in plant.

MR. FRAWLEY: Oh, in plant, the money invested in plant.

MR. NOLAN: Only.

MR. FRAWLEY: Yes, only, then 77% of---

THE CHAIRMAN: Let me get that again.

MR. FRAWLEY: 15% on plant, cracking coils, distillation unit and so on, the plant.

THE CHAIRMAN: Yes.

MR. FRAWLEY: 6% money invested in inventories and 7% money tied up in accounts receivable. Then he says when he applies that to this industry this business of Imperial's, it averages out at 13.1%.

MR. COTTLE: The 13.1% being 77% at 15, 11½% at 7 and 11½% at 6, the average of those three is 13.1%.

MR. FRAWLEY: Yes.

MR. COTTLE: And those percentages are based on Imperial's new plant, the total investment of which is $4,728,000; $1,100,000 being inventories and accounts receivable.

MR. NOLAN: Yes, now when I gave the Commission that figure, the 13.1%, there was some question raised about it.

MR. FRAWLEY: And that is what I am going to say right now. We are very apologetic to the Commission, to my friend and to Dr. Brown, we thought we were checking against the 1938 actual operation and found him to be quite wrong, even at 11.58%, not 13.1%, but either one of us got a brain wave,-well if it was a brain wave it was Mr. Cottle's,-and we checked it against the 1940 Imperial's operation and it was quite right, quite right, so that is what he was talking about.

MR. COTTLE: You see the 1938 plant had only 62% invested, 62% of the capital employed, invested in the plant so that he would have an average then of 62% at 15%, instead of Dr. Brown's 77% at 15%.

MR. NOLAN: The point about it, Mr. Chairman, and I hate interrupting, the question arose here during my presentation as to whether Dr. Brown was talking about 13.1% or whether he should have been talking about 11.58% and which had he in his mind when he was talking to us about what he thought was a fair rate of return. You remember, sir, that figure.

MR. FRAWLEY: We thought we had discovered something.

Anyway it is now on the 1940 operation, it is 13.1% and that can be, you can check that by looking at Exhibit "711", page 16 when he is talking about the investment in the Imperial plant, where he sets down what is the invested capital in the Imperial's new plant.

THE CHAIRMAN: That is volume----

MR. FRAWLEY: That is Exhibit "711" and where he says that it is 77%; which we thought was incorrect, is Volume 127, page 14,209 and 14,210.

THE CHAIRMAN: What is that Exhibit number.

MR. FRAWLEY: Exhibit number is "711", his memorandum page 16.

MAJOR LIPSETT: He said something there, Mr. Frawley, about the rate taking care of the lean years.

MR. FRAWLEY: Yes.

MAJOR LIPSETT: Does that mean that the 15% was the maximum or that that was the average to be taken for the good years and the lean years.

MR. FRAWLEY: Well this is what he says, the 13.01%, he calls it, he calls it 13, we might call it 15 but 13 he says "If you average it over six or seven years, he says that might indicate simply a reasonably good year, it should not be regarded as excessive because, as much as to say, that somebody might say or think that that was excessive, but he says that should not be regarded as excessive because that might indicate a reasonably good year which is required to compensate for the lean years which have preceeded it or have followed or will follow.

MAJOR LIPSETT: That is what I did not quite understand what he meant there, did he mean the 13% was to be considered what the fair rate of return would be on a good year.

MR. FRAWLEY: Oh yes, reasonable.

MAJOR LIPSETT: To make up for the lean years.

MR. FRAWLEY: Yes, because I have some more to read to you, it really runs through for about five pages there to get the tenor of his remarks.

THE CHAIRMAN: It boils down to this as I appreciate it, that they are entitled to a rate of return which gives them an average of 13.1% because nobody knows what year there will be a crop failure or anything else.

MR. FRAWLEY: Yes.

THE CHAIRMAN: Is that not what he says.

MR. FRAWLEY: I wonder if I should not run through it, this is very important I think, very vital, and I think I should run these four or five pages because I have something to say about this naturally. Do you think that if I ran through, there is a couple of pages in which he goes over this again and he repeats it two or three times and then I think we could get pretty clearly what he does mean when he advocates this 13.1% because it is very vital, he says on page 14,210 and just continuing for a couple of pages, he says:

"Now that figure 'and that is that figure is 13.1'
"may be compared with the percentage returns
"as have been estimated and it is seen that
"the estimated return, that the actual re-
"turn on the Imperial plant in 1938 where they
"had the advantage of the British American
"crude, was 12.6%, 'that is correct, that is
item number 1 in the folder Exhibit "732",

"that the estimated return, that the actual re-
"turn on the Imperial plant in 1938 where they
"had the advantage of the British American crude,
"was 12.8%; that the estimated return on the new
"Imperial plant when operated as the old one was
"in 1938, is also 12.8% but my estimate as to
"what the new Imperial plant might do in 1940
"indicates a return of, what was it, 15.6, of
"15.6%. Now let us take that then. Let us sup-
"pose the 15.6% is actually earned on the in-
"vested capital during 1940 for this new plant.
"Q. MAJOR LIPSETT: Is not 15.6% the
"Imperial's figure, was not your figure 21% or
"did I get it wrong?
"A. Let us get that correct. My estimated re-
"turn on the invested capital at the Imperial
"plant based on their estimated costs and the
"estimated capital investment supplied by them,
"would be 15.6%; assuming that prices of crude
"and products to remain as they were in the
"Exhibit "308".
"Q. MR. HARVIE: That is operating on
"the 5,500 barrels instead of 4,750?".

(Page 17,192 follows)

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"A 5500 barrels per day instead of 4750; that figure of
" course includes, my assumption is 5500 barrels will be
" run and therefore I say that is my estimate of what their
" plant will do you see; not my estimate of what some
" paper plant might do but my estimate of what their plant
" will do in 1940. Well that return of 15.6% is about
" $2\frac{1}{2}$% over this 13.1%. I would not be at all concerned
" about that figure because it is for the first year after
" the new plant is in and they are entitled to a little
" quick return on that new investment.
"Q You estimate the 1940 run to be what?
"A 5500 barrels of crude per day, using 5% of raw casing-
" head and no poly plant.
"Q MAJOR LIPSETT: Well you went on from that,
" Dr. Brown, and I want to go through my notes and make
" sure my notes are correct, you say that you estimate
" the profits will be $960,000 or 21% of a return on the
" estimated capital on the basis of the cost being $2\frac{1}{2}$ cents
" per barrel less than the Imperial figures?
"A Now let us get that clear on the record, that estimate
" is an estimated profit on my paper plant. It is not an
" estimate on the Imperial plant. You see we have here a
" number of plants, some of which were in existence and
" no longer exist; some of which are in existence and
" operating; some are about to exist and some never will
" exist," -

and then he adds a very truth:

" and it is going to be rather difficult to get this
" straight."

Therefore, I took that, -

well, do not let me say I did anything- but Mr. Cottle did

this. He put it all together and that is why, so it would help us in considering these eight estimates.

THE CHAIRMAN: And a very useful thing it is.

MR. COMMISSIONER LIPSETT: I suppose what he means is this, first of all he works out the 13.1% as a fair average, and then he says: "But I find it is going to be over 15% in 1940 but I would not worry about that because that might be needed to make up for the lean years and make a general average of 13%."

MR. FRAWLEY: A little quick return. I think that is a good expression.

MR. COMMISSIONER LIPSETT: To make up for the bad years in the past or the possible bad years in the future.

MR. FRAWLEY: The 13% he makes up for the lean years.

THE CHAIRMAN: That is where we are a little confused. I thought he meant you should never complain about the refinery getting 13% because you never know when it will get 8% or none at all. If it is 15 he is putting in that category I would like to know it.

MR. FRAWLEY: The rest of it really does not help to clarify his 13.1, that is the balance of this evidence in the two or three following pages.

THE CHAIRMAN: When Mr. Nolan was speaking I have a note on Dr. Brown here of 8%, 10% and 12.1% and 14% and 18%, and I am getting a little confused about what he wanted us to understand.

MR. HARVIE: I think he also said the average in the States was something below 5% actually received, even if they did strive to get a return of 13%.

MR. NOLAN: Perhaps this book of mine will

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assist in the end because I have all these references gathered together there.

MR. FRAWLEY: It certainly will assist. Major Lipsett is hoping to get his back from me.

MR. COMMISSIONER LIPSETT: That is one of the things I intend struggling foi ultimately.

MR. FRAWLEY: I was trying to skip some of it because I think it quite well could be skipped. Now, you see, this is interesting, I think; on page 14,213, he says, yes, this is the thing. He says:

" Now where are we, where I left my discussion as I
" recall - "

because he was taken off on to other things just like anybody else is whoever said anything in this room -

" Now where are we, where I left my discussion as I
" recall, that this 15.6% return, which is my estimate
" on what Imperial's operation might be in 1940, is
" still nothing to be concerned about -"

THE CHAIRMAN: What figure is that not to be concerned about?

MR. FRAWLEY: The 15.6%.

" that is nothing to be concerned about because
" if that return is actually realized during 1940 it
" is my opinion that prices will be somewhat reduced
" in the retail products or some other adjustment will
" be made, such as the products will be shipped further
" South. I think that is the more likely one, the
" products will be shipped further South, due to the
" fact that there is a little wider margin in the
" refinery operations, with the result that in the
" following year, 1941 perhaps, the plant will run more

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" crude at the same price per crude, thereby increasing
" its deficiehcy still further and that Turner Valley
" crude will then actually find a wider market due to
" the resulting improvements in efficiency of the
" refining operations; Now it is perfectly sound to
" expand the market for Turner Valley crude by improving
" the efficiency of transportation, the efficiency of
" marketing or the efficiency of refining and the
" tendency will be to expand the market for Turner Valley
" crude by this improvement in the efficiency of
" refining, so that the crude producer will continue to
" get the same return per barrel of crude but he will
" get a wider market. If that does not take place due
" to some changes in the competitive situation, the
" other change is that there will be a slight adjustment
" in the retail prices, in which case the market will
" not be expanded but there will be a decrease in the
" retail prices -"

Now mark this -

" If neither of those things take place and the operation
" continues at 5500 barrels a day with prices as they
" now exist, then there would be an indication that a
" relatively high profit in my opinion would be made by
" the refinery but I want to emphasize----
"Q THE CHAIRMAN: Why do you contemplate with
" perfect complacency a high return, what are the
" hazards, Doctor?
"A Well I believe the hazards can be best presented by
" reviewing the history of the return on the invested
" capital in the refining industry, perhaps in Calgary,

" in Canada and in the United States and in the world;
" now it is my impression that the average return on
" invested capital in the refining industry in the
" United States is somewhere around 3 or 4 percent,
" even under reasonably good conditions."

and I will be coming back to that.

" Now faced with that hazard -"

Now, this is important -

" Now faced with that hazard of getting nothing back," - and that is nothing back or something comparable to nothing, 3 or 4 percent he calls nothing.

" of getting nothing back, in my opinion there must be
" the promise of getting 13% or more back in order to
" keep the industry in the state of mind and in the
" ability to raise capital from the public so that it
" will take those risks. Now that does not mean it will
" get 13%. It probably gets much less return than a
" public utility."

And then we talk about hazards. The Chairman is putting it to him about hazards and so on. But to get back to finding out what he means where he puts the 15.6% that the Imperial earns, 15% on plant, we cannot take that really because that has to be averaged with inventories and so on. So we have to take the 13.1% and what comparison he wants us to make with his 15.6% that he estimates for Mr. Nolan in 1940 and the 13.1 that he, out of the air, says is a reasonable rate of return, that is rather difficult. But he does so and I think it is rather important what he does say at page 14,214 He says: Don't worry about them making that 15% because they

are not going to be able to maintain that. They are going to drop their retail prices." Well, who knows whether they are or not. Then he says they are going to run the crude further, they are going to get a little wider market. Well, that is just, with all due respect to Dr. Brown, that is just incorrect. That is all. He is just wrong because it is going right now, what he is talking about, South, it is going right up to the Montana line now, is it not?

MR. HARVIE: Yes, but there is no 15%.

MR. FRAWLEY: We are pushing it just as far south as we can go. You will have to make a mark on page 14,213, that Dr. Brown is not right about that. I do not know what that does to his reasoning, how far it upsets his reasoning. He does not need to talk about Imperial costs or sending their products a little further south, unless they send them down to Montana.

MR. HARVIE: There is a great deal of that area not being served now.

MR. NOLAN: If we are going to have what Dr. Brown says about these things, let us have all.

MR. FRAWLEY: Yes.

MR. NOLAN: If you will turn to page 14,216, he talks about the refiner.

THE CHAIRMAN: Still Volume 127?

MR. FRAWLEY: Volume 127, page 14,215. That is really where I had left off. I think I had better continue reading down:

"Q But when you come to the refinery, if they do not get
" their crude from Turner Valley, they still get it from
" some other place, perhaps at a higher price, but they
" do not cease to operate?

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"A It may. If it does not get its crude from Turner
" Valley but has to bring in Cutbank crude and refine it
" and ship it back South, it is at a very great dis-
" advantage and is faced with the Cutbank crude being
" refined South and coming North and therefore he may
" find himself that he has a big investment in the
" refinery and all he can supply is a little area,
" Calgary and North and he would be then in a rather
" unfavourable competitive position then with the
" refined products coming from the South and he is not
" assured that the Dominion is going to put a tariff on;
" he takes all those risks when he goes into the
" refining business and it is my opinion they ought
" to see a possible return of at least 13% before they
" are justified in going ahead with the venture and I
" say a return of about 15½% in 1940 on their new plant."

Now I guess that means "I see", Mr. Nolan. I see

" I see a return of about 15½% in 1940 on their new
" plant, which I think is perfectly proper. I do not
" think they would be justified in building that new
" plant if they have only say 5% on their investment
" after they get it in; if they were guaranteed 6% on
" their investment of course that is a different story.
" Now that is just my analysis of the situation."

THE CHAIRMAN: What word are you changing?

MR. FRAWLEY: In the fourth line I suggest on page 14,216 that the word "say" - that is if you agree with me - "a return of about 15½% in 1940 on their new plant" - that you substitute "see".

THE CHAIRMAN: You are substituting the word "see" for "say"?

MR. FRAWLEY: Yes.

THE CHAIRMAN: Yes, I see.

MR. FRAWLEY: And there is one more reference to it two pages on, at page 14,213, where he talks about the business and he says:

" In order to induce him to assume those risks," -

that is the risk of demand falling off and so on -

" he must see the possibility of getting a large return.
" It does not mean he gets a large return but he must
" see that possibility because he knows there is going
" to be certainly some lean years. Now I say a
" possibility of 15½% in 1940."

And that again, I think, should be "see".

" Now I see a possibility of 15½% in 1940."

THE CHAIRMAN: Yes. Yes, change that.

MR. FRAWLEY: Yes, and on page 14,218, the same page:

"Q THE CHAIRMAN: And you say for the risk run
" that is not an unreasonable thing?
"A No, it is a possibility now. If it were a reality
" at the end of 1940, if I were the company I would pat
" myself on the back and say 'Well I guessed right in
" putting in the plant', and when that return is reached
" I believe some adjustment would be made as I have
" described, wider markets probably for the products
" from the refinery or possibly a slight adjustment in
" the prices; assuming of course that the demand for the
" products continue and they continue running the
" plant to near capacity."

And I see what we must query about that is his suggestion that the markets may be widened, because, as I understand the Calgary refining area is now serving all they possibly can serve at present.

MR. HARVIE: There are two other references, one on page 14,233.

MR. FRAWLEY: Yes, he goes into it again there.

MR. HARVIE: And he states at that page----

MR. FRAWLEY: It continues on, does it not. He says:

" It is my position that unless a company can see a
" probability of earning 13% on its invested capital,
" or more, they will not be justified and they will not
" make further investments to improve their operation."

MR. HARVIE: And again at page 14,253, he states:

" Most of those factors have been discussed and I believe
" it is, perhaps, not necessary to do any more than to
" summarize and say in my opinion a return on capital
" of at least 13% should be indicated in order to ensure
" the attraction of capital to the enterprise."

MR. FRAWLEY: Oh yes, I know he says that, but that is just Dr. Brown again. What I am interested in is when he is relating it to the 15% and giving some reasons for his opinion. I am obliged to my friend for page 14,233. I think that might be looked at:

" May I elaborate a little further," he says,
" It is my position that unless a company can see a
" probability of earning 13% on its invested capital,
" or more, they will not be justified and they will not
" make further investments to improve their operation.
" Now that is rather interesting in view of that conclusion

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" of mine that in 1938 the Imperial earned 12.8% on their
" capital investment, which is just about the 13.1 that
" I have arrived at. Having had 12.8% in 1938 they
" apparently came to the conclusion that it was time and
" they were justified in making further expenditures
" to improve their plant. Furthermore, if - I do not
" know whether they did or not - that if their estimates
" are comparable to mine their figures would lead them to
" the conclusion that that plant stands to make 15 or 15½%
" on their invested capital in 1940. If their conclusion
" is also the same as mine that 13% should be in the cards,
" as we say, before they go ahead, that is the signal to
" go ahead and build a new plant or extending their old
" one, and that is exactly what they have done. The same
" situation exists very closely with the British American
" Refinery."

And it is just that sort of thing. Now, on page 14,234 he says:

" Now it is rather interesting to me that both of these
" companies, assuming as my estimate, indicated earnings
" around 15% on the invested capital, that both decided
" to go ahead with extensions and new plants, and that
" they did not decide to do that until after the year
" 1938 when the return to the Imperial was about 12.8%.
" Now that does not mean that that 13% is a rigorous
" figure which should be regarded as a proper return to
" these companies on their working capital; what it means
" is that, unless they are in a position to earn 13% or
" more, in other words they must see the possibility of
" earning more than that, it is my opinion that business
" judgment, under conditions as they existed last year,

" would indicate that they should not expand and further
" develop the plant. If the earnings should average
" over a period of 20 or 30 years say 8% on the invested
" capital; I should think that might be considered as a
" fair return but in order that it will average 8% they
" certainly must be able to see the possibility, and in
" some cases the actual fact of earning more than 8%;
" in other words, 8% might be regarded as a proper return
" for a public utility. I have not given consideration
" to conditions in Alberta and I do not wish to recommend
" that 8% is a proper return. I am taking that simply as
" a figure to use in my discussions.
"Q THE CHAIRMAN: Now what I want to try and find
" out is what concretely emerges" -

I hope something does emerge now -

" from your very interesting discussion of this whole matter
" matter; we have, as I understand it, the viewpoint that
" less money should not be paid for crude, that is one
" thing to start with?
"A That is right.
"Q I understand, secondly, to try and put the whole thing in
" a nutshell, I understand secondly that you think that that
" being the minimum price for crude and there being nothing
" startling to show that there is going to be a change in
" the cost of operation, that it is fair and reasonable
" under all the circumstances in Alberta today, that they
" should have the return on the invested capital that they
" are now getting?
"A Which is approximately 12.8 to 13%.
"Q Yes.

"A Yes.

"Q And so to go a further step, if the price of crude should
" not be reduced, it would follow that any reduction in the
" price of gasoline which would have the effect of giving
" a lesser return to the refineries is something which
" should not be recommended, in your view?

"A At the immediate present.

"Q Yes.

"A Yes. May I go a little further with that, I am assuming
" the price for crude f. o. b. the refinery at $1.35."

Now, you were taking him to his other further opinion that the rate of return being earned being somewhere just about his 13% then he saw nothing indicated in the way of a reduced price. He says here on page 14,234:

" Then I think that 8% on the invested capital, may
" be considered a fair return but in order that they
" will average 13%" -

THE CHAIRMAN: Average 8%.

MR. FRAWLEY:

" in order that they will average 8% they must see the
" possibility and the actual fact of earning more."

Is that what he works his 13% on. It must be 13% to get 8.

THE CHAIRMAN: Then where is his 15?

MR. FRAWLEY: If he says 13, 13 and 13 then it is not 8 or anywhere near it. It is 13. I do not see where he gets from 13 to 8 at all. If it were a Public Utility Board giving them 13% so as to be sure that they got 8% there would not be any sense in that at all.

THE CHAIRMAN: No, but they would be guaranteed

their 8% then.

MR. NOLAN: 8 is right for a public utility, perhaps, but not knowing local conditions----

MR. FRAWLEY: Where does he get his 13% from, to make sure that is 8?

MR. NOLAN: No, the 8 has nothing to do with it.

MR. FRAWLEY: Yes, it has something to do with it, because if it was guaranteed 8 he would be satisfied. So we do not make them a public utility and we accept 13 with complacency because we know that is sure to give them 8.

MR. NOLAN: He says on page 14,234:

" If the earnings should average over a period of
" 20 or 30 years say 8% on the invested capital, I
" should think that might be considered as a fair
" return but in order that it will average 8% they
" certainly must be able to see the possibility, and
" in some cases the actual fact of earning more than
" 8%. In other words, 8% might be regarded as a proper
" return for a public utility."

MR. FRAWLEY: All right, he says that. Well, that is quite all right. But he does not destroy it all with the last two words. He said if they got 8% and 8% every year that would be satisfactory.

MR. NOLAN: No, he does not. He says 8% return on a public utility basis is one thing. But with a speculative venture that you have to be able to see a return of 13%, and that is another thing. It is a question of guaranteed profit as opposed to a speculative venture.

MR. COMMISSIONER LIPSETT: Is it a question so much of a

guaranteed profit as a non-competitive position on the one hand and a competitive position on the other. I do not think you can quite put it that a public utility has a guaranteed return any more than the railways, which are public utilities, have a guaranteed return. They are saved from internecine competition among themselves and that is about all.

MR. NOLAN: It is a form of guarantee under the terms.

MR. COMMISSIONER LIPSETT: It does not guarantee a return. It is eliminating competition.

THE CHAIRMAN: Public utility theory, perhaps, cannot be worked out for our railroads owing to their being much bigger than are needed. But I think the theory is if you limit a person to a rate of return you raise their rate to allow them to make that return, if experience shows that they have not made it.

MR. COMMISSIONER LIPSETT: Or if the rate can be raised to that extent.

THE CHAIRMAN: Ordinarily, whether it is gas or electric light or telephone, you see that the public pays a higher rate if they want to use the utility.

MR. NOLAN: Under a public utility, Mr. Chairman, the rate fixed by the regulatory body gives you your rate of return.

THE CHAIRMAN: And I think if the experience of that year is that that is not enough that justifies them applying to the Public Utility Board to increase the rate.

MR. NOLAN: They do not do anything with the rate of return. They take the rate and change it and then

they get----

MR. FRAWLEY: The price per unit. They take the price per unit, 1,000 feet of gas or a kilowatt hour, and shift that around.

MR. NOLAN: Quite so.

THE CHAIRMAN: I think, as I understand the theory underlying public utility operations, if you are limited to let us say 7%, then the rates charged are so allowed as to provide that rate of return. That is when you get into a public utility body. That anything that must of necessity run some risk of losing its assets entirely by reason of something else taking its place or something of that sort, then a higher rate of return is allowed by a public utility board to compensate for the risk entailed. But behind it all they intend that the public shall pay enough to give it a rate of return that is considered proper for that particular industry in which they are engaged in a public service.

MR. FRAWLEY: That is right. In other words, the Public Utility Board takes them under their wing. That brings us straight up to whether or not this rate of return of Dr. Brown's is right and proper.

THE CHAIRMAN: What has become of our 15% in that last discussion, would you say?

MR. FRAWLEY: I say that his basic opinion is 15%, on plant.

THE CHAIRMAN: I understand about that difference between plant and accounts receivable and inventories. Well, where is it now? He discusses the 15% as such.

MR. NOLAN: Yes, My Lord, at page 14,216, Volume 127.

[illegible]

THE CHAIRMAN: Now he says "I see a return of 15½%."

MR. FRAWLEY: He has told us that,"which I think is perfectly proper."

THE CHAIRMAN: Perfectly proper. And I say the discussions you have just been reading to us turn on to 13, don't they, and I say what has become of the 15 or the 15½?

MR. FRAWLEY: Well, I cannot add much more about the 15½ than to take you to what he first says about it.

THE CHAIRMAN: Has he sort of changed his mind about it?

MR. FRAWLEY: At page 14,211 he talks about the 15.6. He says:

" I would not be at all concerned about that figure
" because it is for the first year after the new
" plant is in and they are entitled to a little
" quick return on that new investment."

If then we turn to 14,216 we find there he says:

" I see a return of about 15½% in 1940 on their new
" plant, which I think is perfectly proper."

It can only be perfectly proper in the sense I have mentioned at page 14,211 that it is a little quick profit for this year alone.

THE CHAIRMAN: Perhaps so.

MR. COMMISSIONER LIPSETT: He says it will be corrected in the following year by trying to put the market further or a reduction in the price.

MR. FRAWLEY: Let us say frankly a reduction

in price. You see, he does not mean that they should have this 15%; because he says they are not going to have it. They are going to drop their price because he finally says at one page, which I must remember to keep in mind, 14,214:

" If neither of those things take place,"

and that is an adjustment of retail prices or the widening of the market,

" then there would be an indication that a relatively
" high profit in my opinion would be made by the
" refinery."

MR. NOLAN: He does say we are entitled to 15.6% on the first year's operation of the new plant.

MR. FRAWLEY: That is a quick return.

MR. NOLAN: He said:

" I would not be at all concerned about that figure -
" 15.6 - because it is for the first year after the
" new plant is in and they are entitled to a little
" quick return on that new investment."

MR. FRAWLEY: Yes, you get it and then you do not get it again. It is just a little quick return once and for all.

THE CHAIRMAN: And you say "Well, as a steady thing he stands on 13."

MR. FRAWLEY: Because he repeats it so much. Now, take page 14,214.

THE CHAIRMAN: He says it is not a public utility. If it were, 8% might be all right. But it being what it is and over and above the quick return which the new plant is justified in expecting, they should be getting 13% year by year, to protect them against-----

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MR. FRAWLEY: To keep them in a state of mind and in a position to raise capital from the public so it will take these risks. That is at page 14,214. Even with the hazards, get enough back. But that is the average return which they have to take in the United States. You see, we must appreciate the full significance of that. He says down in the United States they get 3 to 4% return.

(Page 17,210 follows.)

THE CHAIRMAN: What page is that?

MR. FRAWLEY: That is page 14,214 and that is a considered sort of opinion because that is after you asked him, Mr. Chairman ---

THE CHAIRMAN: Page 14,214?

MR. FRAWLEY: Yes, that is right. You say to him, "Why do you contemplate with perfect complacency a high return, what are the hazards, Docotor," and then he says:

"A. Well I believe the hazards can be best presented
" by reviewing the history of the return on the
" invested capital in the refinining industry,
" perhaps in Calgary, in Canada and in the United
" States and in the world; now it is my impression
" that the average return of invested capital in
" the refining industry in the United States is
" somewhere around 3 or 4 percent, even under
" reasonably good conditions. Now faced with that
" hazard of getting nothing back, in my opinion
" there must be the promise of getting 13% or more
" back in order to keep the industry in the state
" of mind and in the ability to raise capital from
" the public so that it will take those risks. Now
" that does not mean it will get 13%."

Now that is his way of putting it.

" It probably gets much less return than a public
" utility."

Now that is, I think, all we can say, it is all there.

MR. NOLAN: Mr. Chairman, may I say,

interrupting again, that that 3 or 4% is the average of what the refineries did get in the United States over a period of years and that is consistent with his later expression on that same page, that when he talks about 13% he does not mean that they are going to get 13%, they do not get anything like that in the United States, they get less there than public utilities get because they got 3 or 4% on an average over the years.

MR. FRAWLEY: Yes, and now that brings me straight to what I am going to submit to this Commission, that they should not get anything like 13% in this Province because they do not get 13%, - they have a situation here where they have not got an effective competition, that is my submission.

MR. NOLAN: What year are you talking about now?

MR. FRAWLEY: I am talking about 1938.

MR. NOLAN: I thought you were talking about 1940.

MR. FRAWLEY: 1939 and 1940. Now we cannot be in all years at once. I say at the time they earned 12.8% in 1938 they earned that because there was no effective competition, that is my proposition, if they earned 15%, if this Commission could surmise that they would earn 15.6%, I would say they could only earn it because there is not any competition.

Now let me develop that whole point because that is my whole point on the rate of return.

The first thing I want to refer to and call the Commission's attention to is Exhibit "713",

that is the Exhibit, Mr. Tanner's letter. Now all Mr. Tanner does,-there is no magic in this, - all Mr. Tanner does is he reviews critically the document which is attached to his letter, a document which is called "Standard Oil Company", "Imperial Oil Limited Controlled by Standard Oil Company of New Jersey", and so on. It is a little pamphlet published by the Financial Post Corporation Service and it is authoritative I am sure, it is just a financial analysis of the Imperial Oil's financial reports and Mr. Tanner in that letter points out that he made an analysis of the Company's Canadian business in refining and marketing.

THE CHAIRMAN: What Exhibit is that?

MR. FRAWLEY: It is Exhibit "713", it is in two parts, it is Mr. Tanner's letter to myself of the 16th of November and it has attached a financial pamphlet with a lot of analyses and statements from the Imperial Oil's Balance Sheet as of December 31st, 1938 and what he says there is that they earn 5.43%, that their earnings were $3,573,260.00, that was shown as net income from Canadian business; the company shows there, the company shows net earnings of 5.43% on their operations in this country.

Now that is my first proposition, that is what Mr. Tanner says this Company earned all over Canada in its refining and marketing operations. Then I want to call your attention to what Mr. A. H. Miller says --

THE CHAIRMAN: Now Mr. Tanner says that?

MR. FRAWLEY: Really Mr. Tanner does not say that. The company's own statement says that, says that. All Mr. Tanner has done is in a concise, informative way put that into a letter to this Commission and that is all.

Then Mr. Miller says at Volume 99, Page 11,201 ---

MR. NOLAN: Which Mr. Miller?

MR. FRAWLEY: Mr. A. H. Miller and he is discussing, he was discussing this question of service stations which occupied so much of our time and he said:

"A. Well our objective is, if possible, to secure a
" return on our investment of what bank interest
" might be, say 5% or 6%, plus the taxes. That
" was our objective. During recent years that
" objective has not been sustained,".

I merely mention that in passing to indicate what is in the mind of the British American Oil Company with regard to one portion of their assets and a very considerable portion, namely the investment in service stations.

I then point to what Mr. Brown, Dr. Brown told us in Volume, just the thing I have been reading, Volume 127, Page 14,214:

"Now it is my impression that the average return of
"invested capital in the refining industry in the
"United States is somewhere around 3 or 4 percent,
"even under reasonably good conditions."

MAJOR LIPSETT: Mr. Frawley, that cannot mean capital as subscribed by the public; it must mean capital that they have built up out of past profits and past earnings because I cannot imagine any oil company could go to the public and get money for a new venture at 4 percent.

MR. FRAWLEY: Yes, it is not so much where it came from, Mr. Commissioner, it is there and it only showed, when you look back on it, it only showed 3 or 4 percent,

that is all. It is not ----

THE CHAIRMAN: Does that show anything more than, I mean does that support the view that that is the proper rate of return or does it equally support the view that they have just gotten so many refineries that they are not getting a proper rate of return in the United States?

MR. FRAWLEY: Right. Now that sort of begs the question, a proper rate of return, I say let us examine first what the Imperial Oil Company does in Canada, what its parent company and its affiliated companies or its other companies do in the United States and when we are all finished with it, what conclusion do we come to? There is something wrong in this province.

THE CHAIRMAN: And when I say a proper rate of return I mean a proper rate of return as Dr. Brown uses it.

MR. FRAWLEY: Yes, it is not 13% or 15%. Now what does it mean? I have a few more bases to put before the Commission before I come to any conclusion.

Now I want to call your attention to Exhibit "713" again which shows, that is Mr. Tanner's letter and the little booklet which shows that the earnings in Canada in 1938 amounted to $3,573,260.00. Exhibit "281" tells us that the Imperial Oil Company in the Province of Alberta earned $650,521.75; in other words, that the Province of Alberta contributed $650,521.75 to that figure of $3,573,260.00; that is, Alberta's contribution is 18.2% of the total Canadian profit.

MR. NOLAN: Now, Mr. Chairman, I do not care what the percent is. I do not think my friend can use his figures when he cannot demonstrate to this Commission how the total earnings of the company were made up for the rest

of Canada, nor the conditions which existed in the other provinces behind those earnings.

MR. FRAWLEY: If you had volunteered your number 9 for Canada we might have been able to do it but you chose to refuse that to the Commission. Just wait until I finish what I have to say. I do not mind my friend interrupting me but I want to just first state my points.

Now I find that 18.2% of the total Canadian profit was contributed by the Province of Alberta; I find from a Dominion publication, the Department of Trade and Commerce, Dominion Bureau of Statistics, when one looks at the gallonage for 1938, we find that the gross gallonage, the gross gallon sales in Canada in 1938 were 762,591,000 gallons; 762,591,000 gallons; Alberta's gallonage was 73,735,000 gallons or 9.66%. Now I just say that our share of the gallonage was about half our contribution to the total profits of the Imperial Oil. I say again that that indicates that in other parts of Canada there was some, there were competitive forces that were so active and so real that they kept the Imperial Oil Company down to 5.43% but in Alberta, where competition was not as keen, was not as effective, the rate of return went up to 12.8% and Dr. Brown estimates it will go up to 15% in 1940.

MAJOR LIPSETT: If I may interrupt you, Mr. Frawley, do those earnings in Alberta of the Imperial Oil Company, does that include their dividends from the Royalite?

MR. FRAWLEY: No, that is just on their refining and marketing business. The very thing we are talking about.

MAJOR LIPSETT: I see.

MR. FRAWLEY: Just on their refining and marketing.

Now, what I say is that the Commission should have regard to what they were able to earn in other parts of Canada and the United States, if they had had their operations in the United States, because presumably if they had been in the United States they would have come within this description of 3 to 4%.

THE CHAIRMAN: Supposing we should conclude, Mr. Frawley, that, perhaps they have had wrongful Government interference in two provinces and cut-throat competition in the rest, where would it end and have we not got to find that out, not just what they got in other places in Canada but what is right that they should get.

MR. FRAWLEY: Well, surely ---

THE CHAIRMAN: Supposing it transpired, Mr. Frawley, that if we were conducting an inquiry in Ontario and you came to the conclusion that they only got 2 percent on their money and so with all the other provinces, that that is all they could get, 2 percent ---

MR. FRAWLEY: Yes.

THE CHAIRMAN: Would it be your argument, I am just putting it to you and I am not saying it would not be, would it be an argument to say, "Now in Alberta this company should certainly never be allowed to get more than they are getting in Ontario, no matter how absurd the Ontario, that return in Ontario to them, might be."

MR. FRAWLEY: I know, you start with that premise.

THE CHAIRMAN: I put it to you for your examination and consideration.

MR. FRAWLEY: Yes, and I just say that we know, it is not far away in darkest Africa, it is just Canada. Now we think we have some general knowledge of the conditions in the rest of Canada. We think that there is a certain amount of competition. I do not know, perhaps they have it all to themselves in the other parts of Canada and perhaps they have not. Perhaps Mr. Austin down in Montreal makes it very tough for them, bringing that stuff in from the Gulf Coast; perhaps that has a lot to do with it; perhaps the Statute down in Nova Scotia keeps them pretty close to the line; that is all very true, but still the people of Alberta are contributing the lion's share, 18.2% to the profit, and I suggest 9.6% of the business. Now what does that mean, that just means that the competition is not working very well in this province. It is for the serious consideration of this Commission, I suggest, whether or not something should not be done. Now what to do is the question. Is it to say that they only should earn in this province what competition in other provinces allows them to earn and that there should be some check and brake put upon the competition in this province.

THE CHAIRMAN: If it is right that in these other provinces they should only earn that, surely ---

MR. FRAWLEY: Yes, that is true, of course ---

THE CHAIRMAN: We are not striving, - I grant you, Mr. Frawley, - that perhaps we should not try and be idealistic, but surely one of our functions is to be quite fair to the companies in any recommendations which we make because we must assume that those who asked us to make it did not want to be unfair and so it seems to me we must try

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and arrive, first, at what is just, what is fair, what kind of business is this, what are its hazards and risks, what should it get on its money. Now I just put those forward because I want you to direct your mind to something which is in my mind, is it right to say, "Well they only got this in Ontario, they only got this in Quebec, they only got this here and there, and therefore, it is right.', assuming my premise now that we should seek out what is right, does it follow that it is right, is it logical to argue that it follows it is right for Alberta because it is all they can get elsewhere, I do not know.

MR. FRAWLEY: I will just answer that by just putting it this way, it means then in this Province where we are for the first time, - and I say so with all respect to British Columbia, we are for the first time closely and I think intelligently and sensibly examining the Oil Industry in this Province, the first time anyway in Canada I think, we have to first say what the rate of return is, whether it be 8 or 9 or 10%, be it whatever you like, we have to do that first, make up our minds about that and then say, "We are going to put the stamp of approval on 10%, even although in the result it makes the people in Alberta pay 5 times more than in all the rest of Canada.", you see that is being consistent and what do we care about what happens in the other provinces ---

THE CHAIRMAN: And to interrupt, we should say, to be equally consistent, the people in other parts of Canada are just not paying enough and that you cannot go on indefinitely paying too little and still have your industry.

[illegible] that is rate, what kin[illegible]

[illegible] are the towards and risks, what

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[illegible] that [illegible]

[illegible] many [illegible]

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[illegible]

[illegible] Lobbying [illegible]

[illegible] the people [illegible]

MR. FRAWLEY: Well that is really what you would be saying.

THE CHAIRMAN: Have your cake and eat it, you cannot destroy an industry and have it functioning for you.

MR. FRAWLEY: Well that is true and I would have thought if that were so, then when we started to talk about Nova Scotia, there would have been a frightful holler go up in this room and the Imperial Oil would have taken pains to tell this Commission that that was a frightful state of affairs down there, that they were in the red in Nova Scotia, that they were in the red in Nova Scotia, but they have not done that, they have done something quite different, they have not said anything like that even in British Columbia, the example of examples where they were just treated shamefully.

MR. NOLAN: What evidence is there of that?

MR. FRAWLEY: Where they were what?

MR. NOLAN: Treated shamefully.

MR. FRAWLEY: They protested.

MR. NOLAN: Not before this Commission.

MR. FRAWLEY: They said to come in and cut the price 4 cents, to cut the price of gasoline 4 cents, was a terrible thing, Mr. Nolan, no question about that.

MR. NOLAN: They did not say that before this Commission.

MR. FRAWLEY: All right, then perhaps we should go the other way and assume that that is an ideal piece of Legislation then.

MAJOR LIPSETT: Perhaps you would go this way and say, Mr. Frawley, that the justification for 13% or 15%

is the hazard of the industry but if that hazard was one outside of this province or something which is wrong in Nova Scotia or something unfair in Ontario which leaves their earnings there, brings their earnings there down to 2 or 3 or 4%, that this province here should not be made to pay 15% for that extra hazard.

MR. FRAWLEY: You see, those are the considerations which are bothering me and it is a very troublesome thing. I put it and I just suggest that we would not have been very far advanced in the light of the Chairman's point of view ---

THE CHAIRMAN: That point of view is free to be changed, Mr. Frawley, and I put it to you so you might examine it.

MR. FRAWLEY: Yes.

THE CHAIRMAN: And explore it and explode it if you can.

MR. FRAWLEY: Yes, yes, perhaps I am taking too much out of the company's silence, it is all very well, we were not investigating the industry all over Canada it is true but nevertheless for purposes of good, well meaning and intelligent business, they could have come into this Commission and said, "Now in other parts of Canada it is true, it is true,", just as soon as they had it pointed out to them that they only made less than 6%, less than 5½% in all Canada, my friend mentioned it, he mentioned it when the evidence was going in but he did no more than mention it, there should have been something more than that. I think I am justified, I respectfully submit in drawing from that evidence and from the fact that there was no

evidence tendered to the Commission that they were treated unfairly, unfairly, and losing money and being forced to go down to 1 or 2% in the other provinces, I think from that the Commission can come to some conclusion that we are "paying the piper" in this province; that even if we had a Dominion Number Nine, we would know what they did on their all-Canadian operation and it would be interesting to know that but they came pretty well within the American average, they did better than the American average. Dr. Brown says 3 to 4 percent; in all Canada they did 5.43 percent, a perfectly satisfactory state of affairs. I submit a perfectly satisfactory state of affairs and if that is a satisfactory state of affairs then just at the moment and perhaps superficially it has to be explored, but at the moment it strikes me as being something strange, to ask the one Province in Canada where the oil is nearest, the one petroleum province in the Dominion, the one where the volume is thinner, of course, and you cannot just jump at conclusions all at once, but that the only petroleum province in Canada should be paying twice, more than twice, and getting into three times, more than what they earn all over Canada as a whole.

MR. HARVIE: It had the effect of bringing in two or three refineries.

MR. FRAWLEY: It certainly has not done it in the rate of return which is what I am talking about at the moment, and at the moment that has given me a great deal of concern, it is as important and vital a problem as will come before the Commission. I do not want to be said to be holding out that a company, the Industry, the Oil Industry in

this province, should earn 5.46% and not a cent more and that rates and prices should be fixed on that, that would not be, that is not what I am asking for but I am just asking the Commission to consider whether or not it does not require some interference, some critical objection to what they did earn and whether or not there should not be some reduction, some going down from what they did earn, to what, to see, to try to see that the people of Alberta get the benefit of the kind of competition which I submit again in the absence of evidence is not to be assumed to be an unfair competition, - that the people of Alberta should enjoy and have the benefit of as good, as stiff and as healthy a competition as apparently exists in the rest of Canada and I think we must keep in mind that it is the kind of competition which exists in the United States and who are we to cry and shed tears for what is happening in the United States; if it is low, it seems low but apparently it is what this Industry earned and I take it that there are many industries, I take it if the Standard Oil Company of New Jersey is earning 3 or 4%, it is not doing too badly. However, that is the point and that is the heart of the suggestion which I make to the Commission, that it would seem to be a fair inference that competition here is falling down on its job and that we must apply some effective remedy by substituting for the rate of return which has been earned, a lower, some lower rate of return which will tend at least, at least tend to give, tend to give relief and the maximum figure which I will suggest will not be one which will hurt anybody but which will tend to suggest, tend to give, tend to give to the people of Alberta competition of the general nature that

seems to be in force in the rest of Canada.

Now how far down should we go? Well I might suggest we go right down to what they earned in all Canada, 5.47%, but I merely point that out to the Commission as what they did, what they did in the rest of Canada but I do make this serious submission that the rate of return should not exceed, that the maximum should be 10%.

THE CHAIRMAN: Mr. Frawley, I think we will sit until 4.15 tonight as we have an engagement then and we will take ten minutes right now if it suits you.

MR. FRAWLEY: Yes, it will suit me very well.

(An adjournment of 10 minutes was here taken.)

(Go to Page 17,224)

MR. FRAWLEY: Now I thought, Mr. Chairman, that I should run through the computation, the calculation which results from changing the rate of return which we had up to today as 15.2%, but which we now know to be 14.19%. I am going to give to the Commission what the consequences are - 14.19 I think is right. It was 15.2.

MR. COMMISSIONER LIPSETT: 15.02.

THE CHAIRMAN: Yes, 14.19, that is right.

MR. NOLAN: That is right.

THE CHAIRMAN: On 5500 barrels daily.

MR. FRAWLEY: Yes. We were working on 14.14 but it is 14.19. Now then, Mr. Chairman, I am going to give you the consequences, expressed in refinery door prices, of reducing the 14.19 to 10%; to 8% and to 6%. Now using always Item 4 in Dr. Brown's estimates. That is where we get the 14.19. The first note I make is that a change in the rate of return of each 1% is equivalent to a change in the net profits of $47,280.00.

THE CHAIRMAN: $47,280.00 is the equivalent of what?

MR. FRAWLEY: To each change in the rate of return of 1%. We are coming down from 14.19%. The total yield of white goods from 5,500 barrels daily is computed by Mr. Cottle to be 55,848,650 gallons. I will state that again. The total yield of white goods from 5500 barrels daily is computed to be 55,848,650 gallons. That comes from, this computation by Mr. Cottle comes from the yields shown by Dr. Brown on Page 15 of Exhibit "711".

THE CHAIRMAN: Page 15?

MR. FRAWLEY: It is a separate page by itself. It has not as yet been called to your attention. But Page 15 of Exhibit "711", that is called "Estimated Refinery Spreads and Yields." Mr. Cottle goes to those figures in arriving at the 55,848,650 gallons. Probably I need do no more than that. The figure there given by Dr. Brown is 27.82%.

MR. COTTLE: That should be gallons.

MR. FRAWLEY: 27.82.......

MR. COTTLE: Gallons. The 27.82 gallons consists of straight run 13, cracked 10.1, natural 1.5, kerosene .91 and distillate 2.31, a total of 27.82 gallons for each barrel of crude run.

MR. FRAWLEY: Probably it is enough to say without going too minutely into the calculations, that Mr. Cottle has worked out from the yields supplied by Dr. Brown in Exhibit "711", that the total yield of white goods from 5500 barrels daily, of crude, will be 55,848,650 gallons.

MR. COMMISSIONER LIPSETT: For the year?

MR. FRAWLEY: For the year. Therefore a change in the rate of return of 1% is equivalent to a change in the price of white goods, all other prices remaining the same, of $47,280.00. $47,820.00 divided by 55,848,650 gallons is 8/100ths of a cent a gallon. It is .0846 cents per gallon or 8/100ths of a cent. The rate of return is 14.19. Now if we reduce that rate of return first to 10%, it means a reduction of 4.19%. Expressed in terms of prices of white goods, the required reduction is 4.19% times .0846, equals .35 cents per gallon, or 1/3rd

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of a cent per gallon.

So just expressed in a word it means that reducing the rate of return from 14.19% to 10%, requires or results in a reduction at the refinery door, these are jobbers' prices, you understand, - of 1/3rd of a cent per gallon, and I will give you just the resulting figure without the calculation with respect to the other percentages. If you go halfway down from 10 to 6 and stop at 8, at 8%, the reduction will be, at the refinery door,....

MR. COTTLE: It will become 6.19 times .0846, which equals .52 cents per gallon.

MR. FRAWLEY: .52 cents per gallon or Half a cent per gallon. And then going to 6%, the reduction will require to be .69 cents per gallon.

MR. COTTLE: Or 8.19 times .0846.

MR. FRAWLEY: That is the calculation, but the result reductions are as follows:- Reducing to 10%, .35 cents per gallon; reducing to 8%, .52 cents per gallon; and reducing to 6% .69 cents per gallon. Those figures are all up-to-date, taking in the increase in the price of crude of 2½ cents per barrel. They are right up to the last minute.

Now then, any other calculations can be done as the Commission requests. As I say I am relying upon estimate Number 4, the 1940 Imperial operations. But Mr.Cottle can work it out for you all of the estimates, all of them right down to Dr.Brown's 10,000 barrel plant.

Now that means that if my contention is to be accepted that there should be ways and means devised of reducing the price at the refinery door

to the jobbers and arbitrarily regarding Mr. Halvorsen as a jobber, to Mr. Halvorsen of - using the maximum rate I have suggested, 10%, of ,35 cents per gallon.

MR.HARVIE: Do you suggest it should all apply on white products?

MR. FRAWLEY: We have worked this out that it applies on all white goods.

MR. HARVIE: And only white goods?

MR. FRAWLEY: Well, that is what the jobbers are buying. That eliminates the others. That is three grades of gasoline and distillate. It is not making any division between the gasolines themselves. It is putting it equally on all of the gasolines.

MR. COTTLE: And distillates.

MR. FRAWLEY: Gasoline and distillates, what they call in the trade white goods.

MR. COMMISSIONER LIPSETT: Supposing that was sound in principle, would that be fair to put it all equally on the three grades of gasoline in view of what we have been told about the position of the third structure?

MR. FRAWLEY: That is the way we have done it and certainly for the Commission Mr.Cottle can just put it all on Ethyl or all on 3 Star, or just wherever you like. But at the moment we have simply allowed it to rest equally on all white goods and it means a reduction, of course, a less reduction on all of them, but if you simply selected one, take regular gasoline, 3 Star, and put it all on tothat........

MR. COMMISSIONER LIPSETT: It would increase the reduction in 3 Star.

MR. COTTLE It maintains the present

spreads between the various products at the refinery. There is a 1 cent spread between distillate and third grade gasoline at the moment. Then there is .8 cents spread between third grade gasoline and 3 Star, and 1 cent between 3 Star and Esso. And these spreads seem fairly reasonable.

THE CHAIRMAN: I suppose you say, Mr. Frawley, unless you leave these spreads, if you try to put it all on to one, if one had the power to make such a reduction, that that would not be sound,, because then this drainage from one to the other would take place.

MR. FRAWLEY: Yes.

THE CHAIRMAN: And so your submission boils down to this, if I understand you, that there should be a third of a cent reduction on the price of all white products to the jobber.

MR. FRAWLEY: There should be at least one-third of a cent reduction on the price of white products to the jobber, and when I say at least, that is giving the maximum, I suggest to the Commission, of 10%.

THE CHAIRMAN: Your submission is that 10% was adequate instead of 14.19?

MR. FRAWLEY: Well, that is adequate. That is the top. Then I ask the Commission to give such effect as they think they should give to the considerations which I have advanced for arriving at something between 5.45, or let us say 6%, and 10%; but that if you reject all of that, in my submission the maximum we must stop at is 10%. That is quite right, and 10% means a reduction of 1/3 of a cent.

THE CHAIRMAN: You say that 1/3 of a

cent should state with the jobbers or do you go on from there?

MR. FRAWLEY: What I say is this, I leave refining, having found myself one-third of a cent per gallon, and I go into marketing.

MR. NOLAN: Getting closer to the consumer all the time.

MR. FRAWLEY: Yes. It is not much good to the consumer at the moment. It is all locked up in North Star Oil Company, Union Oil Company and Mr. Halvorsen.

MR. COMMISSIONER LIPSETT: Mr. Frawley, that one-third of a cent you mentioned at the refinery, you think that the spread as between the three grades, so far as the refinery is concerned, is approximately correct. I mean you do not quarrel with it?

MR. FRAWLEY: Those spreads?

MR. COMMISSIONER LIPSETT: Yes, at the refinery.

MR. FRAWLEY: Quite right, now they are 11, 10 and 9.2.

THE CHAIRMAN: How many grades are there now?

MR. FRAWLEY: There are three gasolines.

THE CHAIRMAN: How many distillates.

MR. COTTLE: Just one distillate. There is Ethyl gasoline, "C" brand gasoline, Third Grade gasoline and Distillate.

MR. COMMISSIONER LIPSETT: When you are dealing with the spreads as between them it is really at the refinery now, because the spread when you get to the consumer

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is larger.

MR. FRAWLEY: Oh yes, we are just at the refinery. Now as I say I pass from refining, having picked up at least one-third of a cent and I go to marketing. Now the first thing to do when we get into marketing is to review the people that are there now and so I have a fairly short memorandum that I can go through fairly quickly because it is merely a reference memorandum as to who the people are now in this Province that are marketing gasoline. I start with Imperial. The Imperial had in 1938 a gallonage of its own, that is gallonage that it marketed. Now we are into marketing so we are not concerned with the gasoline which the Imperial refined for other people. But of its own marketing gallonage the Imperial enjoyed 24,540,921. That was 31.08% of the total gallonage in 1938. The Imperial marketed 31.08%.

Now I will refer the Commissioners to Exhibit "680" for the rest of the information, the particular information with respect to the Imperial Company. That exhibit "680" is a series of statements showing the number of outlets of each company, the number of warehouses of each company, the number and amount of the tankage of each company maintained at each outlet. It is a comprehensive exhibit, and it tells the whole story of the physical position of each marketer in the industry. I have in my hand merely an analysis of that exhibit, a memorandum made from that exhibit to show the number of stations only. The Commissioners would have to go to the Exhibit to see what kind of outlet, the precise capacity at each point and so on. For my purposes, I simply stop to point out that the Imperial operated

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284 stations in 1938. It was completely integrated, both as to production,refining and marketing.

THE CHAIRMAN: Now, Mr. Frawley, before you really get launched into marketing, just help me about this. We have Dr. Brown's evidence about refining in which he says that a certain profit is in his opinion, not too much, and for the reasons that he gives. Was not some support lent to that, although not strictly in the field he was called to speak about, by Dr.Frey?

MR. FRAWLEY: Well I do not know whether or not anything as it were slipped into the record from Dr. Frey on the rate of return. But I can tell the Commission that he protested to me mildly that he be not asked about the rate of return. He did not want to go into it. He did not profess to know anything about it. Nothing ever came from Dr. Frey in answer to a question of mine. Mr. Nolan, with his very good digest, might be able to point to something that he said but I do not think he did.

MR.HARVIE: I did discuss it with him, off the record, as to whether he intended to deal with that and he said not unless he was pressed.

MR.NOLAN: I think his approach to it, Mr. Chairman, was more along the line of whether the price structure was such that it now required Government intervention, and in commenting on that Dr.Frey said that it did not, and he would like it to be understood his remarks applied not only to marketing, but to other branches of the industry.

THE CHAIRMAN: Yes, but I thought he

said something to the effect that the returns that the Company was getting were not out of line.

MR. FRAWLEY: It can be taken, I think what Mr. Nolan says is perhaps as far as he got, and it is worth while perhaps to search for it. Certainly I must admit that there was bound up in what he said that the rate of return was all right, necessarily. You may just as well say that he approved all of the expenditures without analyzing them. But it would not be fair to Dr. Frey to take him very far in the matter of refining at all, because there are two things about this refining. One is the expenditures. Now Dr. Brown did come and did approve those expenditures. He did not find any excessive expenditures.

THE CHAIRMAN: You see, as I remember, Dr. Frey was concerned with whether or not the Government should step in, and one of the things he looked into in determining whether or not from his viewpoint the Government should step in was, were the profits excessive. I think Dr. Brown gets inferential support at least, if not concrete support, from Dr.Frey in saying that, "Well there is nothing here that is wrong, that is out of line." If he does support Dr. Brown we should know, and put it right in with his evidence. If he lends nothing to it, I would like to know it.

MR. FRAWLEY: I think there should be put right down now once again that statement of Dr. Frey's when he said he would look at the profit position. He refers also to the fact that he and Mr.Cottle had not had much time to look at the profit position. Clearly he was talking about marketing. You recall that Dr.

Frey and Mr.Cottle were examining the marketing operations.

THE CHAIRMAN: That maybe quite right but I have a memory that when he was dealing with those occasions when Governments should intervene in the industry, do you think he was talking of marketing then? No. I think he was talking about Governments should step in on such occasions where the price of gasoline to the public was too high for example, because of scarcity. And he says "Certainly the Government should step in". He says "Brown's statement is too wide when he says that competition should always have full play. There are times that Governments may, in the interests of the people, intervene. One of them is when prices are away up, because of scarcity of products". He says in examining into that as to whether it is a proper case for intervention, "I would have regard to the profits, are they excessive or not". Somewhere in there the point I put to him, or somebody did, was "Well what about the position here? Is this a case for Government intervention?" Not in those words, but did he not finally sort of give the whole show his blessing?

MR. FRAWLEY: You see, Mr.Chairman, I think we have to be fair to Dr. Frey, and say he did not look at refining. Nobody knows better than Mr. Cottle and while we do not want Mr. Cottle to give evidence at this stage unless it is necessary.....

THE CHAIRMAN: Is there not something in the book?

MR. NOLAN: Volume 131, Page 14,645. He has been talking about top flights and no bottoms, and this is my note on it. "If the Commission arrived at the

conclusion that the prices here were so completely out of line that they required as drastic action as that, I do not suppose there is anything else that could be done about it, short of making it a utility." And then he says "As far as I am concerned, I do not see anything here in the gasoline distribution that is so terribly out of line as to force a price regulation at every point in the structure, and that is what it amounts to." And then he goes on and talks about other things.

THE CHAIRMAN: That might be what I am thinking of.

MR.HARVIE: I might say at Page 14,655, you made the point again, Mr. Chairman. You say

"Q Dr. Frey, to be concrete, Government inter-
" vention, as I understand your views - Dr.
" Frey, Government intervention should, under
" no circumstances, be made unless the conditions
" are such as to patently indicate the need for
" Government intervention?
"A Yes.
"Q That until it appeared that Government inter-
" vention is desirable it must be treated as an
" emergency measure or of temporary duration
" or it must be considered serious, of so serious
" a character as to call for the creation of a
" public utility which is to be put under the
" dominance of some Public Utility Board?
"A Yes."

And then I think the important point -

" Q Now you have been invited to come to Alberta
" and to make a study of the situation as we
" have it here; you have heard a good deal
" of evidence from Mr. Cottle as to the
" accounting standpoint; you have heard a
" good deal of evidence bearing on other branches;
" is the situation in Alberta such in your opinion
" that it would call for Government intervention
" of any kind?
" A In the marketing I do not see any indication
" that there is any necessity for Government
" intervention." "

MR. NOLAN: Now I can pick that up again right there. Volume 132.

MR.HARVIE: Again at 131, Page 14,661 he says:-

" I do not see anything in the present situation
" that is so completely out of line as to neces-
" sitate Government action as drastic as utility
" regulation. "

THE CHAIRMAN: He is not talking of marketing at Page 14,661?

MR.HARVIE: Well I have not got that.

MR. FRAWLEY: I have that here.

MR. NOLAN: At page 14,676, would you look at that, Mr.Frawley. My note there is, in speaking of Government intervention, "I did not confine my remarks just to marketing. I would say that my remarks would apply with equal force to any part of the industry."

MR. FRAWLEY: Is that Volume 132?

MR. NOLAN: Yes, Page 14,676.

MR. FRAWLEY:

"Q Now, Dr. Frey, I have two or three matters
" and I am finished,"

THE CHAIRMAN: Now who is this? You are examining?

MR. FRAWLEY: Yes, I am examining.

"Q Now Dr. Frey, I have two or three matters and
" I am finished; first of all I would like to
" clear up something which may possibly have
" been a misunderstanding from your evidence;
" you indicated that competition is a healthy
" thing in crude, but you did indicate that cir-
" cumstances might arise whereby there might be
" governmental interference in the marketing end;
" now did you intend to say that or is it your
" view that circumstances also may arise in
" connection with the sale and the movement of
" the crude which might justify governmental
" intervention of some kind?
"A Oh, yes, I did not confine my remarks just to
" marketing. I would say that my remarks would
" apply with equal force to any part of the
" industry." "

That is there should be government intervention in any part of the industry. Is that the note my friend had?

MR. NOLAN: Yes.

MR. FRAWLEY: You see he had left the

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impression in somebody's mind that there could only be Government intervention.....

THE CHAIRMAN: Does it mean that? Or does it mean that he did not see any need of Government intervention?

MR. NOLAN: Because?

THE CHAIRMAn: Bdcause there is nothing wrong here, nothing out of line.

MR. FRAWLEY: No, let me read it again. I want to clear this up. I thought in fairness to him it should be cleared up. "You indicated that competition is a healthy thing in crude, but you did indicate that circumstances might arise whereby there might be governmental interference in the marketing end; now did you intend to say that or is it your view that circumstances also may arise in connection with the sale and the movement of the crude which might justify governmental intervention of some kind? A. Oh yes, I did not confine my remarks just to marketing. I would say that my remarks would apply with equal force to any part of the industry."

THE CHAIRMAN: Well, would not you think all his remarks.....

MR. FRASLEY: Those remarks I was calling his attention to where he indicated that circumstances might arise where there should be Governmental interference in the marketing end. And then I said:- "Well don't you mean that there might be Governmental interference anywhere if these circumstances of yours arise?" And he said "Oh yes, I did not intend to confine my remarks......" and I interpret those remarks just to marketing. He said those same remarks would apply

with equal force to any part of the industry.

THE CHAIRMAN: I thought before Dr. Frey got through, whether it is there or not, but I thought at some stage somebody put to him, and I thought I did myself; Did he find anything here that seemed to call for Governmental reduction in price or interference of any kind?

MR. FRAWLEY: I think you are right when you say he generalized in this way. I think I can find it for you. I put over and above all that the fact that Dr.Frey was not asked to,and kept carefully out of, anything in connection with this kind of refining. That is all. That is refining in Alberta by the Imperial Oil. I think that is right.

MR. COTTEE: Yes, Dr. Frey did not analyze the refinery operations with any degree of intensity at all. He was aware, of course, of the general aspect of the refining situation, but only in a very general way.

MR. COMMISSIONER LIPSETT: I have a note of a statement that might give you the reference. "He thought conditions in Alberta were such that the consumer was not paying more than anyone else on the North American Continent."

MR. NOLAN: That is having regard to the geographical position in which they live.

THE CHAIRMAN: Yes, what page is that?

MR. COMMISSIONER LIPSETT: That is in Volume 132. That is in the afternoon.

THE CHAIRMAN: I am asking this, Mr. Frawley, for the purpose, if you can find that, - I will

tell you while that is being looked for what I want to ask you about is this, if as I suspect that you at least have a general approval of Dr. Brown's evidence as to a reasonable rate of return from Dr. Frey, it does not matter whether Dr. Frey analyzed the statements or made any calculations or not. He heard all the evidence at least. If this is a fair rate of return, having regard to the situation in Alberta, then whether they did or did not get that rate of return is a matter of calculation. But his statement as to what would be a fair rate of return out here in this part of the world would be of interest, because of his experience.

MR. FRAWLEY: Oh quite.

THE CHAIRMAN: Now then, whether he does or does not support Dr. Brown, and we will soon have it run down I expect, here is what I would like the benefit of your views upon, if there is any evidence that points to any other conclusions. After all the evidence is "Now we who are experienced in this industry say to you that you cannot have an industry in a healthy condition and you cannot attract capital into it, and in short it cannot function properly unless it gets a certain rate of return". Is that right? It may be indeed so. But is it right for us to say "Well even though that be all the evidence before us, still we think that we can judge for ourselves as to what a company so situated should get in the way of a return on capital," and speak accordingly. Or should we say "Well we may have notions of our own but in view of the evidence of all the experts that have been before us, with no one saying them nay, and while we may be sceptical about it, there is the evidence and we must act upon the evidence." What is your view about that?

MR. FRAWLEY: Well I have a view about that, that brings me back----

THE CHAIRMAN: It may be very important to us some day and I would like to have the benefit of your thought.

MR. HARVIE: I think I have a reference to that from Dr. Brown, if you would like it.

THE CHAIRMAN: Yes.

MR. HARVIE: It appears at Volume 137, pages 15,360-61-62 I think and I am just reading Mr. Chairman, it is an extract from those pages and it reads this way:

"THE CHAIRMAN: Doctor, I would like
"to know if you would care to develop the
"point as to whether or not it is in your
"view desirable to have any type of interven-
"ing body extending between the Government
"and the industry; and if so what type of body '

And Dr. Frey:

"A. Well in the first instance on conservation
"I have definitely committed myself. That is
"I do believe that it is desirable to have a
"conservation agency. In refining I have seen
"less occasion here than would appear to have
"been necessary at one time or another in the
"United States."

THE CHAIRMAN: Yes.

MR. HARVIE: And then he goes on with something else, but I think that covers it.

MR. FRAWLEY: That is just because there are not too many refineries or too few, but I do not

know that he----

MR. HARVIE: I think it just the point that there is not too much profit here and that is the reason.

MR. FRAWLEY: I do know that. It comes down to the very thing the Chairman has in mind.

THE CHAIRMAN: I would like very much, I think it is of some importance unless Mr. Frawley you succeed in persuading us that it is not; what these experts say about this rate of return, I would like to have run down, with Counsel's assistance overnight, anything which is said in which he definitely rejects the idea that he should intervene and any evidence with regard to what Dr. Brown has said on the rate of return or whether or not,-I confess I had the impression that he more or less put the general stamp of approval in a general way on what Dr. Frey had said.

MR. FRAWLEY: Yes, we must find that for you if we can but I will warn you now that it would be very general because he did not apply his mind to it like he did to marketing.

THE CHAIRMAN: Whatever it is, if we could just put in here with the rest.

MR. FRAWLEY: But when you ask me whether you must follow Dr. Brown or not, I put it to you in two ways, Mr. Chairman, first of all you must analyse, you must be persuaded that what he says, you must be persuaded by his reasoning, you must say "Well that appeals to me, what he says and why he says 13%"

[illegible]

[illegible] , for [illegible] . [illegible]

[illegible] to until [illegible]

[illegible]

if he had come here and said 13% and "Don't ask me questions about it, I say 13.1%", I presume the Commission would have little hesitation in rejecting it but he gave reason and if you do not think that his arguments hang together there in establishing his 13%, then you will not accept it, you will be far from compelled to accept it but supposing it does hang together----

THE CHAIRMAN: Just let us take one for instance, as an illustration first.

MR. FRAWLEY: Yes.

THE CHAIRMAN: He says unless you get that much you can never hope to attract capital into this industry. Now we have instances in Calgary of the Imperial building a new plant, that is putting real money into a new plant. We know that the British American have put up a brand new plant. We are told by Mr. Mayland and Mr. Plotkins that they are adding cracking units to their plants. I suppose it can be taken for granted that, it is advantageous to the public as well as to themselves, that these people have been able to invest that money and compete one with the other with better machinery, better means of getting out their products and getting more out of a barrel of crude than they theretofore have been able to do.

Now Dr. Brown says "You cannot have that sort of thing, you just cannot have it unless you allow them this rate of return".

MR. FRAWLEY: But what does he mean

when he says later, the rate of return, when he says in the United States the average rate of return is 3 to 4%? There are new refineries going up there every day and they are going in there knowing what the rate of return is going to be. We are talking about attracting refinery capital into Alberta today. What would keep refinery capital out today? The competition which now I think for the first time,-I am not as hopeless about this industry as I was a year ago,-I think now we are going to get, we have three brand new refineries, with Mr. Plotkins coming along, that is going to mean something and that more than anything else is going to keep a new refinery out. Surely a man coming in now with money to invest would say "I know what these new refineries are going to mean to us, the rate of return is going to come down".

THE CHAIRMAN: I am not just thinking of that, I am saying "Here are refineries which are here, they must progress or they must go out of business".

MR. FRAWLEY: Yes.

THE CHAIRMAN: That is the history of any business I expect, they have either to go on or back, they are not static for long.

MR. FRAWLEY: No.

THE CHAIRMAN: Now they must have the money, either they make it out of the profits which they see ahead of them in the industry, they are justified in using their capital to put up the sort of thing which they should have----

MR. FRAWLEY: Yes.

THE CHAIRMAN: Now it is not a new person coming in, they have been able to keep up their plant----

MR. FRAWLEY: Yes.

THE CHAIRMAN: So that they are efficient plants. If those plants go to pieces then of course the public is sooner or later going to pay a lot more for their gasoline, if they are working with obsolete, broken-down, worn out machinery. They have been able to keep them up and he says that is the sort of thing, that is the reason why you have to allow them 13% and you say "Well now he refutes himself by saying 4 or 5% is all they get in the United States", or 3 or 4%, whatever it was----

MR. FRAWLEY: Yes, and Imperial's experience here helps to refute him too.

TJE CHAIRMAN: Yes.

MR. FRAWLEY: But what I am bothered about is this, you speak about dangers in the industry. Here is Mr. Mayland embarking upon a new venture. My suggestion amounts to the terrible business of one-third of a cent, that is all. If Mr. Halverson for some other reason, not because I suggest it or because this Commission suggests it but because good business would indicate he should drop it right down to my 6%, drop it down to .69% of a gallon through his jobbers, Mr. Mayland would have to accept it, he would have to accept it and go on and fight for more of Mr. Halverson's gallonage, fight to increase his own gallonage, and the

thing which would seem to be a radical thing in this Commission, in this chamber, is just nothing. It is just accepted and that is one of the incidents of the industry and Mr. Mayland cannot have any assurance at all, what assurance has Mr. Mayland got that he is going to earn 15%. Mr. Halverson with the stroke of a pen can say that he does not earn that----

THE CHAIRMAN: Oh yes, I think that is quite right, mind you----

MR. FRAWLEY: That is what bothers me about it.

THE CHAIRMAN: But when we come to making recommendations we must make them with all the earnestness of two people who feel that they may in some way be implemented and forced on somebody else.

MR. FRAWLEY: Yes.

THE CHAIRMAN: We have to be very serious about what we do because we might be taken seriously and that would advocate or suggest that it might be acted on, so we have to be awfully sure we are not doing somebody some harm.

MR. FRAWLEY: That is right.

THE CHAIRMAN: Now then supposing we were sitting in a judicial capacity, Mr. Frawley, and the evidence was what it is----

MR. FRAWLEY: Now I was going to point that out.

THE CHAIRMAN: If we rejected all the evidence before us----

MR. FRAWLEY: Yes.

THE CHAIRMAN: Because it was unworthy of

belief or because the reasoning behind it, which led to the conclusion put forward by the expert, did not appeal to us---

MR. FRAWLEY: Yes.

THE CHAIRMAN: What would we say, we would say "We have no other evidence".

MR. FRAWLEY: But what does the trial judge say now, that is just exactly what I was coming to, what does the trial judge sitting in a personal injuries action do on the question of damages; the plaintiff submits that his damages are $10,000 and it may be one of those actions in which there was no contest, just a proof of damages and no opposition to it----

THE CHAIRMAN: Yes.

MR. FRAWLEY: But the trial judge says "I have all the evidence before me that the damages are $10,000 but I will apply my own mind to that and I see nothing, there is no false testimony here at all but I am not persuaded about it so I have, I refuse to accept $10,000", and he reaches a judgment for $7,000. Now that is happening all the time. Now what is the reasoning of the trial judge when he rejected the whole effect, the whole 100% of the submission made to him with respect to the damages which should be awarded to the injured person? I say he applies his own independent mind to it, he does not just capriciously say "I will not say $10,000, I will say $8,000".

MR. NOLAN: You are speaking only of general damages and not of special damages.

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MR. FRAWLEY: I do not suppose it matters very much.

MR. NOLAN: It does matter very much because one is susceptible of precise proof.

MR. FRAWLEY: And you think this is susceptible of precise proof, I say no more than general damages.

MR. NOLAN: If we have proved to the satisfaction of Dr. Brown that our operation is fair and reasonable, I do not know what we have left undone. We have gone through the whole thing.

MR. FRAWLEY: Would it not be a tragedy, would it not be a ridiculous state of affairs if this Commission, because we had only one witness speaking in any detail on rate of return, would feel bound, against their own personal convictions, that this Commission is like a trial judge, they do not just have to act because Dr. Brown says so and so, therefore we must say so and so.

THE CHAIRMAN: No, we might reject his evidence in its entirety.

MR. FRAWLEY: Then you would not have to make a negative answer.

THE CHAIRMAN: But if we have done so what have we left.

MR. FRAWLEY: You have your own opinion to superimpose, you have to take certain basic data from his evidence----

MR. NOLAN: No, it is all rejected. You do not take him in part, you do not take the part

you like to use and leave the other part unused.

MR. FRAWLEY: I would think then----

THE CHAIRMAN: Of course you say that all his data leads to a certain result, a factual result. You say it does not necessarily follow that we are bound to accept his statements unrelated to this factual result, namely, that it is not too high, it is all right. You say we can go with him all the way to find that 14.19% is what this company should earn in 1940 with the reductions computed by Mr. Cottle.

(Page 17,249 - follows)

We do not have to accept his view.

MR. FRAWLEY: His opinion.

THE CHAIRMAN: That that is the right return.

MR. FRAWLEY: That is just a question. That is only his opinion. When I say he takes it out of the sky, I mean he is an honest man and he gives us the benefit of his own opinion, like every medical expert that ever went into a witness box, and whose evidence was not wholly accepted. That is all.

THE CHAIRMAN: He says this is a hazardous industry and so on and so on. Now here is an expert who says "I know this industry and I know this business. It should get, in order to attract capital, so much money." In the next breath he says "In the United States they are only earning 3 to 4%." I could understand if he had been examined then: Are they getting capital there? Are they enlarging their plants? Are they able to pay their way when they are only getting 3 to 4%? I do not think there is a word about that.

MR. FRAWLEY: I know, but Mr. Chairman, I could go through the evidence, it would be a task I know, but you could get out of Dr. Frey's evidence that the refining industry in the United States is not static. He talks about this enlargement and this increase in a very general way. But surely you would not stultify yourself by saying "I have no evidence that there is any movement in the refining industry in the United States." You say "I am just as much prepared to say there is no development whatever in new plants being built, just as much prepared to say that as the opposite." I say no,

you can take judicial notice and you can apply your knowledge of affairs. This is not a Court Room. I know we must not be imagining things but.....

MR. HARVIE: I think there is an explanation in regard to these two figures, taking it at 13% or 4%. 13%, as I understand it is the return that you should be allowed to strive for on your usefully employed capital. Now actually in the case of the evidence before us from the British American, there is all the Coutts investment washed up, and with the result, I think the evidence is quite definite, that in order to allow for capital that has been lost through no fault of any person, you have to give a higher rate of return or a reasonable rate of return on the capital usefully employed. It might well be that your refineries could get that rate of return in the United States on the capital usefully employed, but on account of the out-of-date equipment and changing fields and so on, that the average return on all capital they have in it, whether it is usefully employed or not, is only 4 or 5%.

MR. FRAWLEY: I would hate to see the gasoline consumers in Alberta having to pay anything for Mr. Harvie's Coutts plant unless it is forced upon us.

MR. NOLAN: I was wondering if I could give Mr. Commissioner Lipsett the North American reference. It is in Volume 132, at Page 14,766.

THE CHAIRMAN: I have Page 14,676 before. But that is different is it?

MR. NOLAN: Yes. This had to do

J. J. Frawley, K.C.

with competition. He says "I would go so far as to state", says Dr. Frey - "that the competitive system in Alberta is so intense that there is no possibility of a consumer paying more than any other consumers in North America, in considering the geography under which they live."

MR. FRAWLEY: That is just that competition works in Alberta and we have heard that for many thousands of pages.

THE CHAIRMAN: Well we will adjourn till 10.30.

(At this stage the Hearing was adjourned until 10.30 A.M. December 21st, 1939).

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